

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHNATHAN L. BURKS,  
Plaintiff,

vs.

Case No. 2:19-cv-10027

Hon. Gershwin A. Drain

BENNY NAPOLEAN, ET AL.,  
Defendants.

Magistrate Judge Anthony Patti

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The Expert Deposition of CHIEF JAMES DAVIS,  
Taken at 4747 Woodward Avenue,  
Detroit, Michigan,  
Commencing at 9:12 a.m.,  
Friday, September 24, 2021,  
Before Laura T. Ambro, CSR-5882.

Chief James Davis  
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<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 SARAH S. PRESCOTT</p> <p>4 Porter &amp; Porter, PLLC</p> <p>5 105 East Main Street</p> <p>6 Northville, Michigan 48167</p> <p>7 248.679.8711</p> <p>8 prescott@sppplaw.com</p> <p>9 Appearing on behalf of the Plaintiff.</p> <p>10</p> <p>11 PAUL T. O'NEILL</p> <p>12 Assistant Corporation Counsel</p> <p>13 500 Griswold</p> <p>14 30th Floor</p> <p>15 Detroit, Michigan 48226</p> <p>16 313.967.6402</p> <p>17 poneill@waynecounty.com</p> <p>18 Appearing on behalf of the Defendants.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1 Detroit, Michigan</p> <p>2 Friday, September 24, 2021</p> <p>3 9:12 a.m.</p> <p>4</p> <p>5 CHIEF JAMES DAVIS,</p> <p>6 was thereupon called as a witness herein, and after</p> <p>7 having first been duly sworn to testify to the truth,</p> <p>8 the whole truth and nothing but the truth, was examined</p> <p>9 and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MS. PRESCOTT:</p> <p>12 Q. Hello, Mr. Davis. It's nice to meet you in person.</p> <p>13 And thank you for your time here today. So, just as</p> <p>14 before, we are in person. So, it's maybe a little</p> <p>15 easier, I hope. I'm going to ask you questions.</p> <p>16 You're going to tell me what you know. Whatever your</p> <p>17 answers are. We have to try not to talk over each</p> <p>18 other because Laura has to do her best to get exactly</p> <p>19 what the words are. And when two people are speaking,</p> <p>20 it makes it harder than the regular job. It's really</p> <p>21 important that we also communicate clearly. So, there</p> <p>22 might be times where you nod or you shrug your</p> <p>23 shoulders. I might know what you mean, but I might ask</p> <p>24 you to just say a yes or no for the record. And that's</p> <p>25 why I do that. So, again, the record is really clear.</p>
<p>Page 3</p> <p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 CAPTAIN REID CHAKRABARTY</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MS. PRESCOTT: ..... 4</p> <p>8</p> <p>9 EXHIBITS</p> <p>10</p> <p>11 EXHIBIT PAGE</p> <p>12 Exhibits attached to transcript.</p> <p>13</p> <p>14 DEPOSITION EXHIBIT 1 ..... 8</p> <p>15 DEPOSITION EXHIBIT 2 ..... 15</p> <p>16 DEPOSITION EXHIBIT 3 ..... 36</p> <p>17 DEPOSITION EXHIBIT 4 ..... 114</p> <p>18 DEPOSITION EXHIBIT 5 ..... 116</p> <p>19 DEPOSITION EXHIBIT 6 ..... 120</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 It's also really important, in that vein of</p> <p>2 communicating, that you let me know if you don't</p> <p>3 understand anything. If you're not sure what I'm</p> <p>4 asking, please let me know. Or if you need me to</p> <p>5 clarify or define a term, okay?</p> <p>6 A. Yes.</p> <p>7 Q. All right. So, you are here today in what capacities</p> <p>8 for the sheriff's office, as you understand it?</p> <p>9 A. As I understand it, I believe I'm here in the capacity</p> <p>10 of PREA director.</p> <p>11 Q. And one of the things that we sent to counsel is a</p> <p>12 request for you to bring along documents that relate to</p> <p>13 your return to the county. So, I would ask you just</p> <p>14 some background questions. As I understand it, you had</p> <p>15 a career with the sheriff's office and it ended with a</p> <p>16 retirement in 2014; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And then was the next thing that you did for the</p> <p>19 county a consulting position in the form of James Davis</p> <p>20 Consulting, LLC?</p> <p>21 A. No.</p> <p>22 Q. Okay. So, what was between those two, between your</p> <p>23 retirement and when you entered a consultancy under the</p> <p>24 LLC?</p> <p>25 A. I came back in a part-time capacity, I believe, some</p>

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<p style="text-align: right;">Page 6</p> <p>1 time in 2015.</p> <p>2 Q. Okay. And did you have a title or a particular role</p> <p>3 that was assigned in that part-time capacity?</p> <p>4 A. The reason for my return, as indicated by the sheriff's</p> <p>5 office, was to assist in police discipline and internal</p> <p>6 affairs investigations.</p> <p>7 Q. And what was your understanding about why there would</p> <p>8 be somebody that would be doing that part time as</p> <p>9 opposed to the regular staffing being able to cover</p> <p>10 those areas fully?</p> <p>11 A. My understanding was I was brought in to augment the</p> <p>12 existing deputy chief over discipline and internal</p> <p>13 affairs and work in her stead while she attended the</p> <p>14 FBI academy.</p> <p>15 Q. Okay. Did you, in fact – was that, in fact, what you</p> <p>16 did? In other words, did you, in fact, assist with</p> <p>17 police discipline and IA during that part-time</p> <p>18 consultancy?</p> <p>19 A. Yes.</p> <p>20 Q. Were there other duties or responsibilities during that</p> <p>21 part-time period before you formed the LLC and entered</p> <p>22 an agreement with the LLC?</p> <p>23 A. Yes. Because of my experience in the agency, I also</p> <p>24 assisted with policy. I assisted in litigation. I</p> <p>25 assisted in labor arbitration and general duties.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And did you bring the contract here with you today?</p> <p>2 A. What you have today is what could be supplied by the</p> <p>3 administration director from her records.</p> <p>4 Q. Okay.</p> <p>5 A. And she sent those I think just yesterday or the day</p> <p>6 before.</p> <p>7 Q. Okay. So, why don't we mark this first packet. I</p> <p>8 don't want to write on it, since it's the only one.</p> <p>9 But it consists of resolution 2017-590. Modifications,</p> <p>10 number 2 between the county of Wayne and James Davis</p> <p>11 Consulting, LLC, which looks like a two-page document.</p> <p>12 And appendix B to that document. Modifications number</p> <p>13 3 between the county of Wayne and James Davis</p> <p>14 Consulting, LLC. And that was executed, it looks like,</p> <p>15 3/6/18. There might be two copies of that. But I'll</p> <p>16 hand them to the witness. So, there's apparently two</p> <p>17 copies of the modifications number 3. But we'll ask</p> <p>18 the witness if they're different.</p> <p>19 So, that's the resolution of one page;</p> <p>20 modifications 2, two pages; the appendix is one page;</p> <p>21 modifications number 3 is two pages; and there might be</p> <p>22 a duplicate of two pages. So, we're going to mark this</p> <p>23 as Exhibit 1.</p> <p>24 MARKED FOR IDENTIFICATION:</p> <p>25 DEPOSITION EXHIBIT 1</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Okay. And are there any other areas of assistance that</p> <p>2 you worked in that you can recall right now during this</p> <p>3 part-time period?</p> <p>4 A. No.</p> <p>5 Q. And are there particular areas of policy that you</p> <p>6 worked in during that part-time period?</p> <p>7 A. I generally assisted the current, the undersheriff of</p> <p>8 that time frame and helped him with whatever policies</p> <p>9 he was working on, which I didn't know would be many</p> <p>10 different types.</p> <p>11 Q. Who was the undersheriff at the time?</p> <p>12 A. Daniel Phannas.</p> <p>13 Q. P-h-a-n-n-a-s?</p> <p>14 A. Yes.</p> <p>15 Q. And do you know how long you filled this part-time role</p> <p>16 in which you were assisting in these ways you've just</p> <p>17 described?</p> <p>18 A. As you may know, the county of Wayne allows retired</p> <p>19 workers to work in a part-time capacity up to 1,000</p> <p>20 hours. I would have reached the hour maximum, I can't</p> <p>21 recall if it's the end of '15 or the beginning of '16.</p> <p>22 And then I returned in the full-time capacity.</p> <p>23 Q. Okay. And did you create an LLC in which to do that</p> <p>24 and enter under a contract?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 9:20 a.m.</p> <p>2 BY MS. PRESCOTT:</p> <p>3 Q. My question is is Exhibit 1 the item that you were</p> <p>4 referring to that had been supplied by administration</p> <p>5 in the last day or so relative to your agreements with</p> <p>6 the county?</p> <p>7 A. Yes.</p> <p>8 Q. And what it looks like is you first entered into an</p> <p>9 agreement with the county under the format of the LLC</p> <p>10 in November of 2015. It says the parties entered into</p> <p>11 a contract for the term of November 1st, 2015 through</p> <p>12 September 30th, 2016. Have I read that correctly on</p> <p>13 the first page? So, that's the first page of</p> <p>14 modifications number 2. Do you think that November</p> <p>15 1st, 2015 was the time when you became full time?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And is it the case that you do not have the</p> <p>18 original copy that we're seeing a modifications number</p> <p>19 2 of?</p> <p>20 A. I believe that the county has it. And the supervisor</p> <p>21 is out due to Covid until the beginning of October.</p> <p>22 And I think at that point we could find the complete</p> <p>23 contract.</p> <p>24 Q. Okay. You don't have a copy of the original?</p> <p>25 A. I may. I would have to – I would need more time to</p>

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<p style="text-align: right;">Page 10</p> <p>1 look for a copy.</p> <p>2 Q. Okay. And so, was the county increasing your pay in</p> <p>3 these different modifications?</p> <p>4 A. My recollection is not an increase. It's each year</p> <p>5 we're building on the previous year. The compensation</p> <p>6 did not increase.</p> <p>7 Q. Are you working under the same original contract, just</p> <p>8 with labor modifications, all the way up to now?</p> <p>9 A. No.</p> <p>10 Q. Is there a time that you ended the contracts reflected</p> <p>11 in Exhibit 1?</p> <p>12 A. I believe in '18.</p> <p>13 Q. And then what happened with regard to your employment</p> <p>14 or consultancy or whatever arrangements you had with</p> <p>15 the county?</p> <p>16 A. I continued from then until now as a part-time</p> <p>17 1,000-hour employee.</p> <p>18 Q. Okay. And because you worked under the thousand hours,</p> <p>19 you don't need to have a separate consultancy?</p> <p>20 A. Correct.</p> <p>21 Q. I see.</p> <p>22 A. Correct.</p> <p>23 Q. I see. Let me just give this a look. Do you recall</p> <p>24 the date – well, let me back up before we move off of</p> <p>25 this.</p>	<p style="text-align: right;">Page 12</p> <p>1 you would want as an appointment.</p> <p>2 Q. Okay. And so –</p> <p>3 A. The rest of those are together.</p> <p>4 Q. So, the memo, 2016 summary of service and activities,</p> <p>5 goes with the remaining document as like an attachment?</p> <p>6 A. Yes.</p> <p>7 Q. So, what are you doing in this memo? What is this memo</p> <p>8 for?</p> <p>9 A. That memo, I recall, was – the purpose of it was to</p> <p>10 provide the current commissioners a summary of</p> <p>11 activities.</p> <p>12 Q. All right. And so, was it for the purpose of just</p> <p>13 letting them know a year end, or a period year ending,</p> <p>14 or periodic update, or why?</p> <p>15 A. It may have been requested by the commissioner's staff</p> <p>16 that present contracts to the commissioners.</p> <p>17 Q. Okay. And so, in that year that you come on board,</p> <p>18 around November of '15 and up to September of '16, you</p> <p>19 say year long advising and assisting with departmental</p> <p>20 discipline and assistance to the deputy chief. And</p> <p>21 that's one of the things you were spending your time</p> <p>22 doing, right?</p> <p>23 A. Correct.</p> <p>24 Q. And then you were also, as you said, you were advising</p> <p>25 and assisting with litigation and assistance to the</p>
<p style="text-align: right;">Page 11</p> <p>1 Do you know of any difference between the two</p> <p>2 versions of modifications number 3 that are the last</p> <p>3 four pages of the exhibit?</p> <p>4 A. It looks like our administrator sent a double.</p> <p>5 Q. Okay. All right. Fair enough. I didn't see any</p> <p>6 differences, but we can look at them minutely later.</p> <p>7 These contracts don't seem, or at least the</p> <p>8 Exhibit 1, I don't see a title for you. Do you know</p> <p>9 when you obtained the title of the capacity you are</p> <p>10 talking about being here today, the PREA director?</p> <p>11 A. My recollection is 2016.</p> <p>12 Q. Okay. Do you know when in that year?</p> <p>13 A. I don't remember exactly, but I think it would</p> <p>14 correspond with that first full-time contract. So,</p> <p>15 perhaps November of '15.</p> <p>16 Q. Okay. The other document that you've supplied here</p> <p>17 reads Wayne County Sheriff's Office departmental</p> <p>18 communications. It's a memo to all concerned from</p> <p>19 James Davis Consulting, LLC dated September 14th, 2016.</p> <p>20 And the subject line is 2016 summary of services and</p> <p>21 activities. And then that's – let's mark that – is</p> <p>22 this its own document? It was clipped with other ones.</p> <p>23 A. It goes with the attachments, except for the</p> <p>24 appointment. I was trying to find this for today, the</p> <p>25 appointment. I thought that would be something that</p>	<p style="text-align: right;">Page 13</p> <p>1 sheriff's legal advisor, right?</p> <p>2 A. Yes.</p> <p>3 Q. And you were also – you mentioned earlier you were</p> <p>4 working on some policies here. You say departmental</p> <p>5 policy review handcuffing, transportation of prisoners.</p> <p>6 Did you work on that policy?</p> <p>7 A. Yes.</p> <p>8 Q. And then you worked with the county department of</p> <p>9 technology as well to develop and implement a database</p> <p>10 for background checks of investigators during that same</p> <p>11 year?</p> <p>12 A. Yes.</p> <p>13 Q. And then you worked on counseling of female victims of</p> <p>14 sexual abuse and there is a SAFE contract that you</p> <p>15 worked on that same year?</p> <p>16 A. Yes.</p> <p>17 Q. And you did a whole policy review of the whole library</p> <p>18 service?</p> <p>19 A. Yes.</p> <p>20 Q. And you worked on knock and announce rules for when</p> <p>21 people would be coming in, for example, a male into a</p> <p>22 woman's bathroom or female into men's?</p> <p>23 A. Not into the bathroom. The PREA rules require that</p> <p>24 cross gender viewing is curtailed as much as possible.</p> <p>25 And my advisory to the jails was to create a rule that</p>

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<p style="text-align: right;">Page 14</p> <p>1 would require opposite gender deputies, when they were</p> <p>2 assigned to a unit in that capacity, that they announce</p> <p>3 that the opposite sex is present and will be doing</p> <p>4 rounds.</p> <p>5 Q. Okay. Do you work with jail command and advise jail</p> <p>6 command on rules regarding the youthful inmate</p> <p>7 population as well as inmates in general?</p> <p>8 A. Yes.</p> <p>9 Q. You worked in collaboration with Wayne State during</p> <p>10 that same year?</p> <p>11 A. Yes.</p> <p>12 Q. And I think you previously have mentioned this. I</p> <p>13 don't remember in your testimony, but when you work on</p> <p>14 a policy, that's not you sitting in a room and I'm</p> <p>15 going to write up a policy. You have to coordinate</p> <p>16 with lots of different groups of people and go through</p> <p>17 iterations, drafts? There is a whole process that goes</p> <p>18 with those things, right?</p> <p>19 A. Yes.</p> <p>20 Q. And it takes quite a lot of time, doesn't it?</p> <p>21 A. Yes.</p> <p>22 Q. In your memo that you summarize what you've been doing,</p> <p>23 could you, sitting here today, tell how much time you</p> <p>24 spent on any one of the bullet points in your memo</p> <p>25 versus any other time?</p>	<p style="text-align: right;">Page 16</p> <p>1 BY MS. PRESCOTT:</p> <p>2 Q. Can you tell me what that is. I've just handed it to</p> <p>3 you.</p> <p>4 A. This is the sheriff officially appointing me as a</p> <p>5 police officer in his department.</p> <p>6 Q. Had you been initially appointed police officer in his</p> <p>7 department prior to this date at any time after your</p> <p>8 2014 retirement? In other words, was there a gap in</p> <p>9 there?</p> <p>10 A. There was. To have my police powers expire, there was</p> <p>11 a gap, but it was –</p> <p>12 Q. From when?</p> <p>13 A. From retirement on 1/1/2014 until I returned in '15.</p> <p>14 Some time in 2015 is my recollection, in a part-time</p> <p>15 capacity.</p> <p>16 Q. Okay. So then, why did he need to do an appointment in</p> <p>17 Exhibit 2 if they weren't expired?</p> <p>18 A. The Michigan Commission On Law Enforcement Standards</p> <p>19 says if you're a sworn police officer in the state of</p> <p>20 Michigan, and employment ends, and you worked a</p> <p>21 sufficient amount of time, you are eligible to be</p> <p>22 re-sworn in by any state police agency within two</p> <p>23 years. The sheriff would have to officially swear me</p> <p>24 back in upon return after an official separation.</p> <p>25 Q. But only after the two years?</p>
<p style="text-align: right;">Page 15</p> <p>1 A. That would be very difficult.</p> <p>2 Q. You don't have – so us lawyers, we will write down, at</p> <p>3 the end of the day, whatever, depose James Davis. You</p> <p>4 didn't do that?</p> <p>5 A. I did not.</p> <p>6 Q. You didn't have to submit billing that accounted for</p> <p>7 like today I accounted for this policy and today I met</p> <p>8 with so and so on that program at Wayne State?</p> <p>9 A. That was not required.</p> <p>10 Q. Did you do it?</p> <p>11 A. No.</p> <p>12 Q. Are the items that you brought today that were attached</p> <p>13 to your 2016 summary of services and activities</p> <p>14 attachments that went with the memo originally?</p> <p>15 A. Yes.</p> <p>16 Q. And are they the only attachments that went with the</p> <p>17 memo originally?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. One of the items you brought here today you</p> <p>20 mentioned was something called appointment?</p> <p>21 A. Yes.</p> <p>22 MS. PRESCOTT: Let's mark that as 2.</p> <p>23 MARKED FOR IDENTIFICATION:</p> <p>24 DEPOSITION EXHIBIT 2</p> <p>25 9:33 a.m.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Any time there was a break in service. Two standards,</p> <p>2 state of Michigan standards and police department</p> <p>3 standards.</p> <p>4 Q. Okay. So, which standard required – or both required</p> <p>5 Exhibit 2 to happen?</p> <p>6 A. To be employed as a police officer, Exhibit 2 has to be</p> <p>7 signed and executed.</p> <p>8 Q. Right. And is that according to which standard, or</p> <p>9 both?</p> <p>10 A. According to a police agency standard. To work as a</p> <p>11 police officer, you have to be sworn in as a police</p> <p>12 officer for the agency that you work for. Separate</p> <p>13 from the MCOLES standard of the ability to be sworn in</p> <p>14 as a certified police officer in the state of Michigan</p> <p>15 through training.</p> <p>16 Q. So, MCOLES says you can be sworn in. The police agency</p> <p>17 standard says you need to be sworn in – not that –</p> <p>18 it's possible you could go to Grosse Ile or Lansing or</p> <p>19 wherever and take your history and your experience with</p> <p>20 you. But at the sheriff's office, there was an agency</p> <p>21 standard that said you need to be appointed and sworn,</p> <p>22 right?</p> <p>23 A. All 612 agencies would require a swear-in document for</p> <p>24 their own documentation that you're qualified through</p> <p>25 MCOLES training to be a – it's the final act to be an</p>

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<p style="text-align: right;">Page 18</p> <p>1 employee for a police department.</p> <p>2 Q. Fair. So, you had your MCOLES. There is no question</p> <p>3 about it. And in '14 you go to retire. In order to</p> <p>4 return to the Wayne County Sheriff, because you had a</p> <p>5 full retirement and you were separated, you then needed</p> <p>6 to be re-appointed and sworn, correct?</p> <p>7 A. If you want to work in the capacity of police officer.</p> <p>8 The sheriff certainly can hire a civilian who is an</p> <p>9 unsworn police officer.</p> <p>10 Q. Okay. And that's what he did with you, right? You</p> <p>11 weren't technically a sworn officer in 2015 until</p> <p>12 Exhibit 2 happens in 2016, and then eventually he</p> <p>13 actually re-swears you as an officer, is that right?</p> <p>14 MR. O'NEILL: Excuse me. Objection as to the</p> <p>15 date of the document you're showing him, the witness.</p> <p>16 BY MS. PRESCOTT:</p> <p>17 Q. Okay. Am I right?</p> <p>18 A. Yes.</p> <p>19 Q. And so, was there any time before Exhibit 2 is issued</p> <p>20 that you, or somebody with a title or duties of the</p> <p>21 deputy sheriff – because this document appoints you</p> <p>22 deputy sheriff. So, was that applicable before this</p> <p>23 document, just not officially? Or how would you</p> <p>24 describe it?</p> <p>25 A. It is and was applicable. And this is a document I</p>	<p style="text-align: right;">Page 20</p> <p>1 A. The document we turned in today.</p> <p>2 Q. Anything else?</p> <p>3 A. No.</p> <p>4 Q. You were part of a larger deposition in which there was</p> <p>5 a technical court rule that is called 30(b)(6) where</p> <p>6 you spoke for the department. But there were other</p> <p>7 people in other areas of specialty that also spoke and</p> <p>8 also testified. Did you review any of their</p> <p>9 depositions?</p> <p>10 A. No.</p> <p>11 Q. So, for example, Mr. Ramel, classifications director,</p> <p>12 have you seen his deposition?</p> <p>13 A. I did not review his deposition.</p> <p>14 Q. How about Commander Cane?</p> <p>15 A. No.</p> <p>16 Q. Am I correct – well, with regard to your own</p> <p>17 deposition testimony, was there anything in the</p> <p>18 testimony that you feel needs to be contradicted or</p> <p>19 corrected here today?</p> <p>20 A. No.</p> <p>21 Q. Am I correct that you never met Mr. Martin Solomon, the</p> <p>22 rapist in this case?</p> <p>23 A. That is correct.</p> <p>24 Q. You've never met my client, Mr. Burks, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 19</p> <p>1 could find that represented 2016.</p> <p>2 Q. Okay. So, you're saying before it was technically –</p> <p>3 that you were deputy sheriff under this document, you</p> <p>4 were operating as deputy sheriff?</p> <p>5 MR. O'NEILL: Objection, vague. I don't</p> <p>6 understand the question.</p> <p>7 BY MS. PRESCOTT:</p> <p>8 Q. Is that right?</p> <p>9 A. There may be a previous signed appointment from the</p> <p>10 part-time phase.</p> <p>11 Q. Fair. There might be. I get you. But all I'm asking</p> <p>12 is were you acting in a role called deputy sheriff</p> <p>13 before Exhibit 2?</p> <p>14 A. Yes.</p> <p>15 Q. That's all I wanted to understand.</p> <p>16 You had the pleasure and honor of</p> <p>17 representing the sheriff's office previously in this</p> <p>18 case. You were deposed. Since that day, right up</p> <p>19 until we sat down and I started asking you questions,</p> <p>20 what have you reviewed in terms of documents or</p> <p>21 materials having anything to do with this case?</p> <p>22 A. I reviewed my original deposition testimony. I</p> <p>23 reviewed two documents supplied by you as expert</p> <p>24 testimony.</p> <p>25 Q. Anything else?</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Have you ever, all the way up to today, reviewed the</p> <p>2 internal affairs file relative to the rape?</p> <p>3 A. Yes.</p> <p>4 Q. When did you do that?</p> <p>5 A. I did that prior to the first deposition. I believe it</p> <p>6 was part of that.</p> <p>7 Q. Okay. I think you testified that you looked through it</p> <p>8 and not in detail; is that correct?</p> <p>9 A. I don't recall.</p> <p>10 Q. Okay. Whether you said that or not, would it be</p> <p>11 correct to say that you looked through it but not in</p> <p>12 great detail?</p> <p>13 A. Yes.</p> <p>14 Q. Am I correct that you were not in your capacity of a</p> <p>15 part-time employee or under the James Davis, LLC</p> <p>16 consultancy? You did not have any role whatsoever in</p> <p>17 running the internal affairs investigation as to</p> <p>18 Solomon and Burks?</p> <p>19 A. Other than ensuring that it happened and communicating</p> <p>20 with them that they were conducting an investigation.</p> <p>21 Q. Is that your total role, from beginning to end,</p> <p>22 anything to do with the IA investigation of Solomon and</p> <p>23 Burks?</p> <p>24 A. Yes.</p> <p>25 Q. Internal affairs, when you say communicating with them</p>



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<p style="text-align: right;">Page 22</p> <p>1 that they were conducting an investigation, who</p> <p>2 specifically do you mean?</p> <p>3 A. The practice would have been to talk to the captain or</p> <p>4 e-mail the captain. We would be notified as an</p> <p>5 executive group that there was an assault.</p> <p>6 Q. Okay. Do you have a specific memory, sitting here, of</p> <p>7 talking to or e-mailing a captain about the Solomon and</p> <p>8 Burks allegations?</p> <p>9 A. Not other than it was my practice.</p> <p>10 Q. Do you remember who the captain was that was</p> <p>11 responsible and in charge?</p> <p>12 A. I imagine that would be Builivant.</p> <p>13 Q. But that you don't know for positive?</p> <p>14 A. I'm fairly certain he was in that role in 2016.</p> <p>15 Q. And do you recall any communications that you and he</p> <p>16 had, about the Solomon and Burks allegations, other</p> <p>17 than that it would have been your practice to say are</p> <p>18 you sure you are investigating?</p> <p>19 A. We would have follow-up communication regarding the</p> <p>20 unfolding of the case. That there wasn't going to be a</p> <p>21 charge. That they were going to refer to the</p> <p>22 prosecutor for charges.</p> <p>23 Q. Do you remember, sitting here today, having that</p> <p>24 particular conversation with anyone, Builivant or</p> <p>25 anyone else?</p>	<p style="text-align: right;">Page 24</p> <p>1 investigation?</p> <p>2 A. I believe it was Builivant. I just recall that</p> <p>3 Chakrabarty did take a turn at that job, but I don't</p> <p>4 recall when that was.</p> <p>5 Q. Did you talk to Chakrabarty about Solomon and Burks at</p> <p>6 any time?</p> <p>7 A. No.</p> <p>8 Q. Or e-mail?</p> <p>9 A. Not that I can recall.</p> <p>10 Q. And you haven't seen any e-mails with him about, you</p> <p>11 know, following up on the unfolding of the case, that</p> <p>12 sort of thing?</p> <p>13 A. No, not on my computer.</p> <p>14 Q. Did you ever listen to the investigatory tapes, the</p> <p>15 questioning by the investigator that went on in this</p> <p>16 sexual assault matter?</p> <p>17 A. No.</p> <p>18 Q. Would it be correct to say that you were not on board</p> <p>19 6/10 the night of the sexual assault?</p> <p>20 A. I would be working days.</p> <p>21 Q. And in fact, you didn't go into the wards as part of</p> <p>22 your regular day-to-day activity, right?</p> <p>23 A. No.</p> <p>24 Q. Am I correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 23</p> <p>1 A. I believe it's too long ago to have that clarity of</p> <p>2 memory other than that was my practice.</p> <p>3 Q. You haven't seen any documents that reflect an e-mail</p> <p>4 exchange of the kind you've just described, have you?</p> <p>5 A. No.</p> <p>6 Q. Do you think that e-mails might exist? Or have you</p> <p>7 looked?</p> <p>8 A. I believe we searched for e-mails and we would have</p> <p>9 turned those over. So, my guess is we would have</p> <p>10 talked on that.</p> <p>11 Q. Have you talked to – he is now Commander Builivant.</p> <p>12 Have you talked to Builivant about the Solomon and</p> <p>13 Burks matter since the lawsuit was filed at any time?</p> <p>14 A. I don't think in any detail. I think I know he was</p> <p>15 deposed. I don't know if we were deposed on the same</p> <p>16 day. Not regarding the case.</p> <p>17 Q. Do you know Mr. Chakrabarty's role in IA at the time of</p> <p>18 the Solomon and Burks allegations?</p> <p>19 A. I imagine he's working in the jail. But he did have a</p> <p>20 short stint as IA captain. And he left, and I'm not</p> <p>21 sure, sitting here today, what the dates are. But if</p> <p>22 he wasn't the IA captain, he was certainly assigned in</p> <p>23 the jail.</p> <p>24 Q. So, do you know whether it was Builivant or Chakrabarty</p> <p>25 that was responsible at the time of the IA</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Thank you. Did you ever talk to Commander Cane about</p> <p>2 the Burks and Solomon sexual assault?</p> <p>3 A. Not that I can recall.</p> <p>4 Q. Or e-mail with her about it?</p> <p>5 A. Not that I recall. It's possible, but I don't recall.</p> <p>6 Q. Do you know – would either Chakrabarty or Builivant be</p> <p>7 essentially the head of IA at the time, being a</p> <p>8 captain?</p> <p>9 A. Yes. They would both be captains in their role.</p> <p>10 Q. And is that – is AI headed by a captain?</p> <p>11 A. Yes.</p> <p>12 Q. You didn't interview any witness, you personally in the</p> <p>13 Burks and Solomon effort, right?</p> <p>14 A. No.</p> <p>15 Q. And have you ever read any witness statements in that</p> <p>16 matter?</p> <p>17 A. It's possible if it was part of the IA packet.</p> <p>18 Q. But you're not sure?</p> <p>19 A. No.</p> <p>20 Q. Do you know who did do the witness interviews or the</p> <p>21 investigation of the Solomon and Burks matter?</p> <p>22 A. I don't recall who signed that report.</p> <p>23 Q. Okay. Do you know of any discussion or dialogue</p> <p>24 between IA and Commander Cane about Burks and Solomon,</p> <p>25 even if you weren't the one sort of making this happen?</p>

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<p style="text-align: right;">Page 26</p> <p>1 Do you know of dialogue they had with regard to Burks 2 and Solomon? 3 A. I do not. 4 Q. Did you participate in any sort of review of the file 5 after the IA investigation was – the steps of the 6 investigation were complete with anyone in the chain of 7 command at the sheriff's office? 8 A. As I previously stated, I would have had a discussion 9 with the captain regarding its status, which would be 10 my practice. 11 Q. Anything beyond that? 12 A. We would have had our – we would have met regarding 13 quarterly report or annual report. We would discuss 14 the cases over the time frame of reporting time to 15 discuss them. 16 Q. Who are you talking about as we there, we would have 17 met? 18 A. The internal affairs captain and myself. 19 Q. Okay. When you talk about reporting, are you talking 20 about to the bureau of prisons? 21 A. Both reports – the report to the bureau of prisons and 22 the report for the three-months accounting of assaults 23 in jails. 24 Q. And who did the three months of accounting of the 25 assaults in jails go to?</p>	<p style="text-align: right;">Page 28</p> <p>1 whatever would be in the internal affairs file are the 2 things that you might have seen. If it wasn't in that 3 file, then you wouldn't have seen any intake or 4 classification documents? 5 A. Generally not. 6 Q. Have you ever reviewed the Odyssey, the history of 7 charges against Solomon? 8 A. I've seen the jail charge sheet, but not the Odyssey 9 sheets or any LEIN information. 10 Q. Have you ever reviewed his medical for any time before 11 the rape? 12 A. No. 13 Q. Have you ever spoken with – do you know who the named 14 defendants are in this case, the individual officers? 15 A. No. 16 Q. Have you talked to any individual officers who were 17 floor security staff on the night of the assault? 18 A. No. 19 Q. About the case? 20 A. No. 21 Q. Did you ever speak with any of the prosecutors or 22 police officers who were involved in the prosecution of 23 Solomon as to Burks? 24 A. Other than the captain, no. 25 Q. The captain wasn't – do you know who the police</p>
<p style="text-align: right;">Page 27</p> <p>1 A. The three month report that we created we send to the 2 commission. 3 Q. Okay. So, am I – if I'm understanding, every – 4 periodically, in order to complete reports that had to 5 go out, you would meet with the head of IA to go over 6 what the statistics are of how many allegations and 7 what are the different resolutions? 8 A. Yes. As well as the outcomes, the progress. 9 Q. Am I correct that those aren't dialogues that are 10 specific to the merits or the underlying claims as 11 opposed to accounting for where are we in the process, 12 how many have been resolved, which categories do they 13 fit into? 14 A. So, if you're talking about the criminal merits of the 15 case, we would mention that, but I would not have an 16 opinion on that. 17 Q. All the way up to today, have you seen any of the 18 intake or classification documents for Burks or 19 Solomon? 20 A. Unless they were part of the investigatory packet that 21 I reviewed, I would have seen what was provided by 22 internal affairs. That could include charging sheets. 23 But not anything specific to classification or any 24 computerized sorts of documents. 25 Q. Okay. So, if I've understood correctly, your point is</p>	<p style="text-align: right;">Page 29</p> <p>1 officers were that were involved in the criminal 2 prosecution? 3 A. No. 4 Q. You didn't talk to anybody from Kim Worthy's office, 5 the DPD, did you? 6 A. No. 7 Q. You obviously had an array of responsibilities in 2016. 8 But you were not in a supervisory or command chain of 9 any of the floor security officers for 2016? 10 A. Correct. 11 Q. And you also weren't responsible for delivering 12 training to floor security staff, were you? 13 A. Personally I did not deliver the training. 14 Q. And there is a whole training unit of people who do the 15 development of the training and then track who is 16 getting it and roll it out, right? 17 A. In a general sense, yes. But in 2016, the training 18 that we rolled out was provided by the National 19 Institute of Corrections. They were computerized 20 modules. 21 Q. Okay. In terms of following up who is getting the 22 training on what schedule, is it happening, 23 accountability for is it happening, you weren't 24 operationalizing that for floor security staff in ward 25 610 in 2016 or before, were you?</p>

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<p style="text-align: right;">Page 30</p> <p>1 A. No. It was happening at a lower command level.</p> <p>2 Q. When were you first appointed to do anything relative</p> <p>3 to training or studying, enforcing the Prison Rape</p> <p>4 Elimination Act?</p> <p>5 A. Is there a window you're asking me to comment on, or</p> <p>6 forever?</p> <p>7 Q. When was it your role to be somebody that was looking</p> <p>8 at the Prison Rape Elimination Act, how we need to</p> <p>9 behave under it, how we need to enforce it?</p> <p>10 A. In 2003, I was the training director of the agency as a</p> <p>11 lieutenant and we incorporated PREA into our then</p> <p>12 correctional academy.</p> <p>13 Q. Okay. When were you responsible for any other aspect</p> <p>14 of the training or enforcing any Prison Rape</p> <p>15 Elimination Act requirements? So, you were in the</p> <p>16 training unit in 2003. Was there a time where PREA</p> <p>17 enforcement was one of your job duties under your</p> <p>18 title?</p> <p>19 A. Other than 2016?</p> <p>20 Q. No, 2016.</p> <p>21 A. I was the PREA director in 2016.</p> <p>22 Q. Okay. So, 2016 you became the PREA director, right?</p> <p>23 A. Yes.</p> <p>24 Q. Any other –</p> <p>25 A. That's possible that that went into 2017 when I became</p>	<p style="text-align: right;">Page 32</p> <p>1 academies put in some format of training relative to</p> <p>2 the Prison Rape Elimination Act? Was it a requirement</p> <p>3 to do so?</p> <p>4 A. I don't think it was a requirement in 2003. And I</p> <p>5 can't speak for today, because I no longer have an</p> <p>6 administrative role with the Michigan Sheriff's</p> <p>7 Training and Coordinating Council.</p> <p>8 Q. So, can you speak to when it became a requirement for</p> <p>9 all of the correctional academies that are accepted by</p> <p>10 the Wayne County jail to be sufficient as hired?</p> <p>11 A. I can speak to ours. It's always been included since</p> <p>12 2003.</p> <p>13 Q. Right. But you can't speak to others?</p> <p>14 A. Not sitting here today without looking into it, asking</p> <p>15 the question.</p> <p>16 Q. Okay. And did you personally create the programming</p> <p>17 that went into the Wayne County Sheriff's Office</p> <p>18 correctional academy relative to the Prison Rape</p> <p>19 Elimination Act?</p> <p>20 A. Not the current modules developed.</p> <p>21 Q. But back in 2003, you said you were a lieutenant, and</p> <p>22 you said there was an effort to put some training into</p> <p>23 the correctional academy?</p> <p>24 A. Yes.</p> <p>25 Q. Did you lead that?</p>
<p style="text-align: right;">Page 31</p> <p>1 the grants director in '17 and '18. And then I became</p> <p>2 the PREA director again when I went back to my</p> <p>3 part-time role maybe in '19 until today.</p> <p>4 Q. The Wayne County sheriff's office runs a correctional</p> <p>5 academy?</p> <p>6 A. Yes.</p> <p>7 Q. And you knew and understood that officers – so, is</p> <p>8 that entity within the sheriff's department, or is it a</p> <p>9 separate like property or non-property agency?</p> <p>10 A. That's the training unit that you referred to earlier.</p> <p>11 The training unit runs the academy.</p> <p>12 Q. So, your point is in 2003, Wayne County knew and</p> <p>13 understood that it needed to have PREA training for its</p> <p>14 recruits that were going to the correctional academy,</p> <p>15 right?</p> <p>16 A. We voluntarily added it.</p> <p>17 Q. Because you felt that it was necessary?</p> <p>18 A. Because we saw it on the horizon as being important.</p> <p>19 Q. Okay. So, you don't have to go to the Wayne County</p> <p>20 sheriff's office correctional academy to become a</p> <p>21 correctional officer in the Wayne County jail, right?</p> <p>22 A. Correct. You just have to attend a certified academy</p> <p>23 in the state of Michigan by the Michigan Sheriff's</p> <p>24 Coordinating and Training Council.</p> <p>25 Q. And did the Coordinating Council all across its</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And so, was that same module that you developed,</p> <p>3 was there like a module or a written policy? Or what</p> <p>4 did you develop?</p> <p>5 A. I believe we expanded the prison supervision module to</p> <p>6 contain sexual safety.</p> <p>7 Q. Okay. And so, what does that mean? You did a</p> <p>8 PowerPoint, a written policy, or reenactments? What</p> <p>9 did you develop?</p> <p>10 A. There may have been a PowerPoint that we developed and</p> <p>11 awareness. What I'm recalling today sitting here is</p> <p>12 there was an awareness module regarding the Prison Rape</p> <p>13 Elimination Act.</p> <p>14 Q. Fair. Can you describe it any –</p> <p>15 A. Not any closer than the obvious factors of ensuring</p> <p>16 that officers are aware of the safety of the prisoners,</p> <p>17 sexual safety and rape.</p> <p>18 Q. I guess what is confusing to me, I assume, since the</p> <p>19 Wayne county jail has been in operation, officers have</p> <p>20 been trained that they are supposed to attend to the</p> <p>21 safety of prisoners?</p> <p>22 A. So, if I'm not being clear, of course you're correct.</p> <p>23 That's all we do. That's all we do is provide for the</p> <p>24 custodial care of prisoners in the jail setting. And</p> <p>25 officers are expert at that. And they were expert</p>

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<p style="text-align: right;">Page 34</p> <p>1 before 2003. 2003 we made a point to emphasize sexual  2 safety. It was still a consideration prior.  3 Q. So, what I'm trying to understand is what changed in  4 2003; if you have any detail that you can give me?  5 A. What changed is Michigan Sheriff's Coordinating and  6 Training Council became a body in the state of  7 Michigan. And I was interested in being part of that  8 organization; and I was. We not only added Prison Rape  9 Elimination Act awareness, but we increased our academy  10 length and we participated in creating the entire  11 correctional module that the state uses.  12 Q. Okay. So, my question wasn't super clear. My question  13 is what specifically in the training modules changed in  14 2003 relative to awareness of prisoner safety,  15 including sexual safety; if you recall?  16 A. Well, what I recall from Wayne County in 2003 is we  17 were becoming aware of this federal legislation. We  18 wanted officers to be aware of federal rules. I'm  19 sorry. We wanted to be aware, officers to be aware.  20 Q. Okay. So, you wanted them to know there was this new  21 act and that it increased or had an emphasis or focused  22 on the risks of sexual violation in conditions of  23 confinement?  24 A. Yes.  25 Q. Was there any more content that you can tell us about</p>	<p style="text-align: right;">Page 36</p> <p>1 the memo and the stack of papers that you brought as 3.  2 MARKED FOR IDENTIFICATION:  3 DEPOSITION EXHIBIT 3  4 10:11 a.m.  5 BY MS. PRESCOTT:  6 Q. I marked as Exhibit 3 your memo September 14, 2016.  7 It's two pages. And then, you know, there's quite a  8 number of attachments. Oh, I do see – I'm just  9 looking at this. But is Exhibit 3 what you were  10 referring to when you said that whatever dates you  11 would have would be in that exhibit?  12 A. Yes. And my guess was it was in January, and I took  13 all the modules that were available to take.  14 Q. Was there a PREA director before you?  15 A. My understanding is yes. Chuck Pappas.  16 Q. Can you spell his name for us.  17 A. It's Charles P-a-p-p-a-s.  18 Q. Okay. And do you know how long he was in that role?  19 A. I do not.  20 Q. Do you know why he didn't create PREA coordinators at  21 the different jails during his term?  22 A. I do not.  23 Q. Do you know why he didn't order training for all the  24 floor security staff during his term?  25 A. I do not.</p>
<p style="text-align: right;">Page 35</p> <p>1 here today?  2 A. I cannot recall. I can say from my 1989 jailers  3 training that I attended personally, there was still  4 sexual safety discussed regarding prisoner housing  5 supervision.  6 Q. When was the first time you took a module that was  7 developed by the people who focused or have expertise  8 in sexual safety in prisons, whether it was PREA or any  9 other, you know, training module from beyond your  10 academy years?  11 A. When I became the PREA director, I was the first one to  12 take the NIC modules from the PREA center, and I took  13 them all. And after that, I directed the rest of the  14 jail staff to take modules that I thought were  15 appropriate to their role.  16 Q. Okay. So, is this 2016?  17 A. '16.  18 Q. And when did you complete the modules?  19 A. It might be in the exhibit. I'm not sure. But it  20 would have been pretty fairly early on. Perhaps  21 January.  22 Q. Are there records of that?  23 A. It might be in what we provided.  24 Q. Okay. So, I'll look through these. Is there any other  25 records? Then let's mark the rest of it. Let's mark</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Do you know why he didn't create pamphlets and handbook  2 provisions about the Prison Rape Elimination Act during  3 his tenure?  4 A. I recall us having a discussion that may have been an  5 idea he had. And I think he was also working on the  6 policy, but it was not completed. The next generation  7 of sexual safety policy.  8 Q. The one that was promulgated when you became the PREA  9 director?  10 A. Correct.  11 Q. So, he was working on the policy, but do you have any  12 information on why he didn't get a pamphlet put  13 together for prisoners? Or was that specific to PREA?  14 A. I do not.  15 Q. You worked on the policy is it 1417?  16 A. Yes.  17 Q. 1417. For months of your time as PREA coordinator  18 before it was revised and promulgated in its more  19 recent form, right, in its updated form?  20 A. Correct.  21 Q. In fact, you went through at least five revisions of  22 the policy, back and forth with all the different  23 stakeholders and looking at what was necessary and  24 whatnot; is that correct?  25 A. That's correct.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. How long had Mr. Pappas been working on the policy 2 before you started? 3 A. I don't know. 4 Q. Do you know why he wasn't able to promulgate it and get 5 it out during his term as PREA director? 6 A. No. 7 Q. Do you know how many drafts were done under his 8 stewardship when he was in that role? 9 A. I do not. 10 Q. Do you know whether he had sexual assault response 11 meetings? 12 A. I do not. 13 Q. Did you ever attend any sexual assault response 14 meeting? 15 A. Yes. 16 Q. Did you ever do so before you were the PREA director? 17 A. No. 18 Q. When is the earliest you can recall attending one? 19 A. The reports from that meeting are in the packet that we 20 supplied today. I think it was 2016. 21 Q. Do you know whether there were any meetings being held 22 before that, like a sexual assault response team – 23 A. I do not know. 24 Q. – meeting? 25 A. I do not.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. When? 2 A. In conjunction with the issuance of my memo to internal 3 affairs. 4 Q. I understand. I'm asking about a date. 5 A. I do not know what date the captain gave them to 6 complete it. But I'm aware they completed it. 7 Q. Do you know what date? 8 A. I do not. 9 Q. And you don't know when the captain gave the order 10 either? 11 A. I do not. But my recollection is it was in conjunction 12 with the date of the memo. 13 Q. Are you saying that it happened the day the memo was 14 issued? Is that what you mean in conjunction with? 15 A. Very shortly thereafter. 16 Q. Have you ever seen that order? 17 A. Mostly it was verbal and with my memo. 18 Q. So, that's a no, you haven't seen anything in writing? 19 A. No. My memo contains the instructions for accessing 20 the training. So, that's what they would have gotten. 21 Q. Do you know if the IA investigation relative to sexual 22 assaults was carried out pursuant to training that was 23 specifically informed by PREA? 24 A. My thought is that they took that training prior to 25 August. But we'd have to look at the date on my memo.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Do you know whether Mr. Pappas attended any specialized 2 training for investigating sexual assaults? 3 A. I don't know. 4 Q. Did you order internal affairs to attend specialized 5 training for sexual assault investigations? 6 A. Yes. 7 Q. Do you know when? 8 A. The paperwork is in that handout. It was in that – in 9 2016 I ordered them to – well, I asked supervisors to 10 have them take the specialized investigator training 11 from the PREA website. And I also recall them saying 12 that they attended some kind of in-person PREA 13 investigator training. And that may have been before 14 me under Charles Pappas. 15 Q. Do you know who said that to you? 16 A. It most likely was Captain Builivant. 17 Q. What did Captain Builivant say that specifically – do 18 you remember any more than what you just said? 19 A. Just that there was an in-person training that some of 20 the investigators attended. And I don't have the 21 specific recollection of the exact wording. 22 Q. So, you asked a supervisor to have IA take the 23 specialized training in 2016. Did that then get 24 ordered? 25 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 And then they may have kept their certificates that 2 they received from the training. That would be dated. 3 But I don't know that I have that. 4 Q. Okay. So, there's two questions I guess you could – I 5 mean, we could take this as two different thoughts. 6 One is they have the training, yes or no, before 7 August. And maybe you can find that out. I have a 8 slightly different follow-up question, which is are you 9 able to assess the quality of the IA investigation in 10 terms of its alignment with PREA based on what you 11 know? 12 A. Yes. 13 Q. Okay. Did I ask you who did it? You said you don't 14 know who signed the report. So, did you ever talk to 15 the actual investigator in the sexual assault 16 investigation? 17 A. I may have. I don't recall. 18 Q. So, it's your – in your prior deposition, you 19 testified you don't know whether any staff members were 20 asked any questions in the IA investigation. Do you 21 now know whether they were asked any questions? 22 A. I do not. 23 Q. You didn't listen to the recordings? 24 A. I did not. 25 Q. So, you're not aware that not one single solitary</p>

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<p style="text-align: right;">Page 42</p> <p>1 question was asked of the victim about where any staff</p> <p>2 was, what any staff was doing, whether he asked for</p> <p>3 help, anything to do with what was going on with staff</p> <p>4 whatsoever, you're not aware of that?</p> <p>5 A. I am not.</p> <p>6 Q. So, how did you just testify a moment ago that you're</p> <p>7 able to sit here and assess the quality of the IA</p> <p>8 investigation into this matter?</p> <p>9 A. My understanding of this case is that the inmate told</p> <p>10 an officer that he had a problem. The officer acted</p> <p>11 immediately. Removed him from the ward with – got</p> <p>12 assistance, got medical assistance. Called internal</p> <p>13 affairs. There was no indication that there was any</p> <p>14 fault on the officer's response to a claim of assault.</p> <p>15 Q. How would there be any indication of fault on the part</p> <p>16 of the people who were responsible, and as you just</p> <p>17 testified 15 or 20 minutes ago, experts in paying</p> <p>18 attention to people's safety if the victim wasn't even</p> <p>19 asked a single question about what the experts on</p> <p>20 safety were doing or where they were or how they</p> <p>21 responded at the time of the rape?</p> <p>22 A. That would be a question for the investigator.</p> <p>23 Q. But I'm asking you. You said you could sit here and</p> <p>24 testify about the quality of the investigation. And</p> <p>25 then you said, you know, there's no indication of any</p>	<p style="text-align: right;">Page 44</p> <p>1 A. We do everything in our power to –</p> <p>2 Q. I'm not asking what you do –</p> <p>3 A. – predict and prevent assaults in the jail.</p> <p>4 Q. Your job as PREA director is to prevent rape and sexual</p> <p>5 assault, right?</p> <p>6 A. I think there is no question.</p> <p>7 Q. Are you comfortable as somebody who has worked in – as</p> <p>8 somebody who has been a leader in this department, as</p> <p>9 somebody who has been a retiree after a long period of</p> <p>10 service, as someone who has been in training, as</p> <p>11 someone who has been a PREA director, as someone who</p> <p>12 has been a deputy sheriff, well at your level of</p> <p>13 command, are you comfortable with the concept that a</p> <p>14 rape occurs under the watch of officers and they are</p> <p>15 never questioned about what they saw, what they were</p> <p>16 doing that night, as part of the workings of the IA?</p> <p>17 A. I am never comfortable. I think our officers do a</p> <p>18 great job every day. It's difficult and hard to do.</p> <p>19 Q. It's also hard to be a prisoner in the Wayne County</p> <p>20 jail or in any other jail facility, isn't it?</p> <p>21 A. I don't have an answer to that.</p> <p>22 Q. Really? After all your years. I mean, let's break it</p> <p>23 down. You understand that the prisoners have no means</p> <p>24 to defend themselves when they're locked away in these</p> <p>25 places, right?</p>
<p style="text-align: right;">Page 43</p> <p>1 problem.</p> <p>2 A. I'm confident that if there was an indication of a</p> <p>3 problem, it would have gone through discipline and I</p> <p>4 would have seen it from the disciplinary chief and we</p> <p>5 would have acted on that information. Because that's</p> <p>6 what internal affairs does every time, hundreds of</p> <p>7 times.</p> <p>8 Q. So, maybe there would have been all kinds of follow-up,</p> <p>9 all kinds of discipline, and thinking about it, and</p> <p>10 paying attention to it. Except my question to you is</p> <p>11 how would you ever get there if no one bothered to even</p> <p>12 ask a single question about what the staff was doing</p> <p>13 that night? How would you know if you don't – you say</p> <p>14 there is no indication. I agree there is no indication</p> <p>15 because there is no investigation of it. So, how can</p> <p>16 you say what would have happened if there is no</p> <p>17 investigation?</p> <p>18 A. I think there was an investigation and I think they did</p> <p>19 a good job. They were able to prosecute the person.</p> <p>20 Q. Okay. But I'm not asking about prosecuting assailants.</p> <p>21 Your job as the PREA director is to prevent the rape,</p> <p>22 right? I mean, it's great that you prosecuted</p> <p>23 afterwards. Someone went to jail for that. But</p> <p>24 someone was also raped, and your job is to prevent</p> <p>25 that, right?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. I think they have the ability to assist in their own</p> <p>2 welfare.</p> <p>3 Q. Okay. But if they throw a punch, they can be</p> <p>4 prosecuted for that, right?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And they certainly can't have a weapon, right?</p> <p>7 A. We do everything to control contraband and weapons into</p> <p>8 the jail system.</p> <p>9 Q. They could have a weapon, they're not supposed to have</p> <p>10 weapons, right?</p> <p>11 A. Correct.</p> <p>12 Q. And they're not supposed to be engaging in any kind of</p> <p>13 fighting, right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. So, people are locked in with serial rapists in</p> <p>16 small confined spaces, sometimes for weeks or months at</p> <p>17 a time, and they are not supposed to fight anyone, and</p> <p>18 they're not supposed to have a weapon. Can we agree</p> <p>19 that that is not a great and comfortable place to live</p> <p>20 or exist either? You said the officers had a hard job.</p> <p>21 Which is getting along in a very dangerous scenario?</p> <p>22 A. And we do our best to make them comfortable.</p> <p>23 Q. So, to my question, are you – you said you're never</p> <p>24 comfortable with, I guess, IA investigations. My</p> <p>25 question had been are you comfortable, in all your</p>



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<p style="text-align: right;">Page 46</p> <p>1 experiences and all your seniority, with an IA</p> <p>2 investigation that doesn't ask a single question? Are</p> <p>3 you aware of other IA investigations that don't ask</p> <p>4 even a single question about where the officers were at</p> <p>5 the time?</p> <p>6 A. I'm not sure I agree that they didn't ask a single</p> <p>7 question.</p> <p>8 Q. Because you don't know, do you? You don't really know</p> <p>9 what they asked, right?</p> <p>10 A. I know they asked questions. You can't conduct an</p> <p>11 investigation without asking questions.</p> <p>12 Q. Okay. But you, sitting here today, you don't know that</p> <p>13 they never – well, you testified before you don't know</p> <p>14 what was asked of the officers or whether they were</p> <p>15 given written statements to do or questioned in any</p> <p>16 way. You already said that. And you earlier said you</p> <p>17 didn't listen to the tapes. You don't know what my</p> <p>18 client was asked. Is it going to be your testimony,</p> <p>19 leaving here today, that you can put your print on, you</p> <p>20 know, quality job guys, on an investigation that you</p> <p>21 don't know what the questions were?</p> <p>22 MR. O'NEILL: Well, excuse me. Objection,</p> <p>23 exceeds the scope of this witness's testimony and</p> <p>24 expected testimony at trial. Go ahead and answer, if</p> <p>25 you can.</p>	<p style="text-align: right;">Page 48</p> <p>1 way the matter could have been better handled by the</p> <p>2 staff or the institution itself?</p> <p>3 A. Well, that might go back to my previous answer. I</p> <p>4 don't ever – I think we can always do better. I think</p> <p>5 we did a good job. I guess I don't understand your</p> <p>6 question.</p> <p>7 Q. I think you do. I asked you for your list of specific</p> <p>8 steps particular to the Solomon and Burks matter that</p> <p>9 were taken to assess whether the institution or staff</p> <p>10 could have reacted better prior to the rape or</p> <p>11 prevented, in any way, the rape?</p> <p>12 A. I still don't see how they could have reacted better</p> <p>13 than they did based on the facts of the case that I</p> <p>14 know.</p> <p>15 Q. Do you know any specific steps?</p> <p>16 A. A complaint was made by an inmate. There was an</p> <p>17 immediate reaction to the staff to separate, to</p> <p>18 protect, to get help, to care for. And there's no</p> <p>19 indication that anything was done improperly before or</p> <p>20 after.</p> <p>21 Q. A rape happening inside your prison isn't an indication</p> <p>22 that maybe there could have been something that could</p> <p>23 have happened better?</p> <p>24 A. No. You're asking me for a specific that someone did.</p> <p>25 Well, I don't think there is evidence of anyone doing</p>
<p style="text-align: right;">Page 47</p> <p>1 A. I believe today that they did a good investigation and</p> <p>2 I think that did they ask a single question needs to be</p> <p>3 asked to the internal affairs.</p> <p>4 BY MS. PRESCOTT:</p> <p>5 Q. I don't understand the basis for your opinion that it</p> <p>6 was a good investigation.</p> <p>7 A. From the perspective of PREA, prisoners got all the</p> <p>8 service that they needed that was necessary and</p> <p>9 required and they did it in an expedient, quick manner.</p> <p>10 They protected both prisoners by separating them,</p> <p>11 receiving medical care.</p> <p>12 Q. So, you think PREA is solely limited to getting medical</p> <p>13 care, getting people separated, taking their statements</p> <p>14 after the fact, and giving no attention whatsoever to</p> <p>15 what the institutional or personnel failures might have</p> <p>16 been or even just things that could be improved on?</p> <p>17 You think that's what PREA is about?</p> <p>18 MR. O'NEILL: Excuse me. Objection,</p> <p>19 mischaracterizes prior testimony. You can answer, if</p> <p>20 you can.</p> <p>21 A. I think I need you to ask a question.</p> <p>22 BY MS. PRESCOTT:</p> <p>23 Q. I'll rephrase it.</p> <p>24 Specific to the Solomon and Burks rape, what</p> <p>25 analysis was conducted to determine if there was any</p>	<p style="text-align: right;">Page 49</p> <p>1 anything inappropriate or contributing to the assault.</p> <p>2 Q. Okay. So, have you completed your answer on the</p> <p>3 specific steps you're aware of?</p> <p>4 A. I'm sorry. I'm not understanding the question.</p> <p>5 Q. I asked you a question, whether you could list specific</p> <p>6 steps that were undertaken. I repeated it twice.</p> <p>7 You've answered it as best you can, I imagine. Do you</p> <p>8 have more to add?</p> <p>9 A. I'm not clear on the question still.</p> <p>10 Q. The question had been what particular steps were taken</p> <p>11 to assess whether the institution as a whole, or the</p> <p>12 personnel on staff, could have better behaved, acted,</p> <p>13 fulfilled their duties to prevent the assault?</p> <p>14 A. Talk to the internal affairs captain, review his case</p> <p>15 in the three month time window and annual window, more</p> <p>16 discussion. Nothing from internal affairs or</p> <p>17 discipline or that warranted action.</p> <p>18 Q. Anything else?</p> <p>19 A. No.</p> <p>20 Q. You said in your list more discussion. Are you talking</p> <p>21 about talking to the IA captain? You're not sure who?</p> <p>22 You're not sure when?</p> <p>23 A. Builivant, during the course of the case, which</p> <p>24 stretched on for a very long time. So, yeah, we would</p> <p>25 have reviewed it together within our three-month</p>

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<p style="text-align: right;">Page 50</p> <p>1 review.</p> <p>2 Q. What did Bulivant do specifically to assess whether</p> <p>3 any staff members might need to be retrained,</p> <p>4 disciplined, talked to, about their behaviors or</p> <p>5 failures or acts or omissions?</p> <p>6 A. He would act on anything that he found wrong or unusual</p> <p>7 or failing from the investigation.</p> <p>8 Q. Do you know specific steps Bulivant took as to the</p> <p>9 Burks and Solomon investigation to determine staff</p> <p>10 appropriateness or inappropriateness of responses?</p> <p>11 A. I don't know.</p> <p>12 Q. Do you know anything the investigator did in that</p> <p>13 regard, not Bulivant but the actual – Christopher</p> <p>14 Lawson, if that helps you?</p> <p>15 A. Not outside of the investigation itself.</p> <p>16 Q. How about Commander Cane, who is in charge of the floor</p> <p>17 security?</p> <p>18 A. I don't believe we had any interaction. Maybe we spoke</p> <p>19 about it, but I do not recall.</p> <p>20 Q. Do you know of any steps she took specific to the staff</p> <p>21 that were on duty on the night of the rape to</p> <p>22 investigate it for herself or to discipline or coach in</p> <p>23 any way as to their failures or acts or omissions?</p> <p>24 A. I would have to defer to her. I do not know.</p> <p>25 MR. O'NEILL: Can we take a break in the next</p>	<p style="text-align: right;">Page 52</p> <p>1 information. But of course I think I testified earlier</p> <p>2 that we get an announcement that there's been an issue</p> <p>3 and we ensure that the investigation is proceeding and</p> <p>4 that everything is being done that we expect to be</p> <p>5 done.</p> <p>6 Q. What I'm asking about is you did testify about this</p> <p>7 earlier, but you recall how there is statistics that</p> <p>8 report out the number of assaults that happen in the</p> <p>9 jail, and is it substantiated, is it not substantiated.</p> <p>10 Those are the reviews you're talking about doing in IA,</p> <p>11 and sitting down and doing regularly, right?</p> <p>12 A. Yes.</p> <p>13 Q. There are numbers – and I think there's numbers that</p> <p>14 get put out for every period. Is it a year? Or</p> <p>15 sometimes you do it quarterly? Do you recall that? Do</p> <p>16 you remember that?</p> <p>17 A. I lost the question. Sorry.</p> <p>18 Q. That's okay. You report out to the bureau of prisons</p> <p>19 the number of different categories of different things,</p> <p>20 sexual misconduct, sexual assaults, et cetera, by a</p> <p>21 year, right?</p> <p>22 A. Yes.</p> <p>23 Q. You recall that we covered, in your last deposition,</p> <p>24 that this rape happens in 2016. And in the 2016</p> <p>25 report, you write zero for number of sexual assaults in</p>
<p style="text-align: right;">Page 51</p> <p>1 15 minutes or so?</p> <p>2 MS. PRESCOTT: Yeah.</p> <p>3 BY MS. PRESCOTT:</p> <p>4 Q. Why isn't there any documentation of you reviewing</p> <p>5 anything about the Solomon and Burks rape in your role</p> <p>6 as PREA coordinator?</p> <p>7 A. Well, it was my practice to create – review documents</p> <p>8 if I saw a need to review the case.</p> <p>9 Q. So, you didn't review all the cases?</p> <p>10 A. I reviewed all the cases, but I only would write a</p> <p>11 report on if I thought something was actionable.</p> <p>12 Q. So, the only thing we have that suggests that you, in</p> <p>13 any way – you don't have an e-mail. You don't have</p> <p>14 any writings from Bulivant, Chakrabarty, your boss,</p> <p>15 Cane, or anybody else, nothing in writing about you</p> <p>16 ever having anything to do with reviewing the</p> <p>17 investigation of Solomon and Burks as PREA coordinator,</p> <p>18 right?</p> <p>19 A. Not outside of my three-month review and annual review.</p> <p>20 Q. You mean the numbers that reflect that there wasn't</p> <p>21 even an attack at all in 2016? Is that what you mean</p> <p>22 by the three-months review and the annual review? Is</p> <p>23 that what you're referring to?</p> <p>24 A. I'm referring to the time that we go over the cases for</p> <p>25 reporting is a chance to see any additional new</p>	<p style="text-align: right;">Page 53</p> <p>1 the prison, right?</p> <p>2 A. Well, there's different categories. So, it's not a yes</p> <p>3 or a no. There is on-going investigation. Mr. Solomon</p> <p>4 should be reflected in an on-going status, or</p> <p>5 Mr. Burks.</p> <p>6 Q. But nobody in your department, in the sheriff's office,</p> <p>7 ever took any steps to get to an answer about whether</p> <p>8 your department substantiated it or didn't? Didn't</p> <p>9 they just say we're handing it to the prosecutor and</p> <p>10 they'll do what they want to do; am I correct?</p> <p>11 A. No. What we would hope is that we would move from</p> <p>12 on-going to a finality. But it took two years in his</p> <p>13 case. And the finality, in his case, should have been</p> <p>14 reflected as an assault substantiated. It would have</p> <p>15 moved categories.</p> <p>16 Q. So, other departments do what they're going to do.</p> <p>17 That's not up to you. Like Kim Worth's office, she</p> <p>18 can prosecute. I don't want to use my resources for</p> <p>19 what – she can do whatever she wants. And that's not</p> <p>20 in your jurisdiction, right? You don't control those</p> <p>21 decisions?</p> <p>22 A. Yes, we don't.</p> <p>23 Q. And she could get – one of her prosecutors could make</p> <p>24 a mistake and not turn over some important evidence and</p> <p>25 the case could get thrown out, or a person could – a</p>



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<p style="text-align: right;">Page 54</p> <p>1 case can be dismissed, even though they committed a</p> <p>2 rape in the Wayne County jail; do you understand that?</p> <p>3 A. I'm sorry. You would have to repeat that.</p> <p>4 Q. Do you understand that the prosecutor could end up with</p> <p>5 a dismissal of a case where there's absolutely a rape</p> <p>6 that has occurred in the Wayne County jail even though</p> <p>7 they can't get a conviction for it; do you understand</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. And you understand that the jail and the sheriff's</p> <p>11 office has its own responsibility to determine for</p> <p>12 itself whether allegations are substantiated or not,</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. And you can't delegate that to somebody else, correct?</p> <p>16 A. Correct. And we would move it to substantiated,</p> <p>17 whether it was prosecuted or not. Whether, based on</p> <p>18 information from the captain, that he felt it was</p> <p>19 substantiated.</p> <p>20 Q. Why didn't that ever happen in 2016 or 2017 in your</p> <p>21 reporting out that there is no substantiated cases?</p> <p>22 Why didn't anybody ever make a finding and say we</p> <p>23 substantiate that this happened in our facility?</p> <p>24 A. Well, I believe, at the time, we were waiting for that</p> <p>25 to resolve.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. I think in the previous deposition we discovered that</p> <p>2 his category wasn't changed. And I believe that that</p> <p>3 was an omission because of the length of time it took</p> <p>4 to prosecute. I understand that you're saying it could</p> <p>5 have gone earlier.</p> <p>6 Q. So that the data given to the federal government</p> <p>7 accurately reflected what your own department was</p> <p>8 concluding. That's why I was asking those questions.</p> <p>9 A. And generally they resolve within that year. But this</p> <p>10 one did not.</p> <p>11 Q. But it's not – your department has no problem stamping</p> <p>12 things unsubstantiated and closing files.</p> <p>13 A. If that can be determined from the initial response.</p> <p>14 Q. And from the initial response, your department</p> <p>15 determined this should be prosecuted, right?</p> <p>16 A. I don't know the answer to that.</p> <p>17 Q. Let's ask it this way, and then we can go on break.</p> <p>18 From the day this got sent to the prosecutor, and for</p> <p>19 the following year it took the prosecutor to get to the</p> <p>20 conviction, your office wasn't doing any further steps</p> <p>21 on this, right?</p> <p>22 A. No. In our opinion, I think I testified, there wasn't</p> <p>23 any further steps to take.</p> <p>24 MS. PRESCOTT: We can take a break.</p> <p>25 MR. O'NEILL: Thank you.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. So, you just decided to delegate it in this case and</p> <p>2 not make your own determination?</p> <p>3 A. No. I would ask them every three months was there</p> <p>4 progress on that. Where would we put that now.</p> <p>5 Q. Why didn't you say, for example, Burks passed a</p> <p>6 polygraph. A prosecutor finds that there is a basis</p> <p>7 for a warrant. A judge binds someone over. There are</p> <p>8 findings that there is probable cause. Why didn't any</p> <p>9 of those steps say, along with what we see and what we</p> <p>10 observe, we think that's enough, we think that's</p> <p>11 substantiated?</p> <p>12 A. And we would do that. And we should have done that.</p> <p>13 If we didn't do it, we would have done it.</p> <p>14 Q. Wasn't it substantiated to the extent of your people</p> <p>15 thinking this needs to go, and the prosecutor needs to</p> <p>16 do this, the very day it went out to Kim Worthy's</p> <p>17 office for a warrant? You don't send her office things</p> <p>18 you don't think happened, do you?</p> <p>19 A. Well, we send her things that we're looking for a</p> <p>20 determination on from a criminal charge, for criminal</p> <p>21 liability.</p> <p>22 Q. There's no piece of paper anywhere that you've ever</p> <p>23 seen where someone in your department says that the</p> <p>24 sheriff's office says stamp substantiated, all the way</p> <p>25 up to today; isn't that correct?</p>	<p style="text-align: right;">Page 57</p> <p>1 (Recess taken at 10:47 a.m.)</p> <p>2 (Back on the record at 10:53 a.m.)</p> <p>3 MS. PRESCOTT: Back on the record.</p> <p>4 BY MS. PRESCOTT:</p> <p>5 Q. Are you able to testify to any activities Commander</p> <p>6 Cane took in the year 2016, the months leading up to</p> <p>7 the rape, relative to improvements for sexual safety or</p> <p>8 assessments on what might be needed for improvements on</p> <p>9 sexual safety in her jail division?</p> <p>10 A. Well, in general, she would have incorporated all this</p> <p>11 training, overseen the training, taken the training.</p> <p>12 Did you mean in general or specifically to this case?</p> <p>13 Q. So, specifically before the rape, what you actually</p> <p>14 know happened, instead of what could have happened.</p> <p>15 A. Well, I know I ordered training of all the employees in</p> <p>16 that building. She got my communications regarding</p> <p>17 various PREA issues. And she would have been aware of</p> <p>18 classifications. The new educational pamphlet, the</p> <p>19 inmate rule book, all the things that were implemented</p> <p>20 in that year.</p> <p>21 Q. Okay. What I'm asking is things that she did. You're</p> <p>22 telling me about a pamphlet that existed. She could</p> <p>23 have become aware of it. You know, training that you</p> <p>24 ordered. I'm asking about what she ordered. What she</p> <p>25 did.</p>

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<p style="text-align: right;">Page 58</p> <p>1 A. Specifically, I guess I can't answer that.</p> <p>2 Q. How about any command staff over that jail division,</p> <p>3 same question. What specific steps they did, not what</p> <p>4 you did, in the say eight months before the rape?</p> <p>5 A. I can't recall any specifics.</p> <p>6 Q. Do you know whether the sheriff's office was compliant</p> <p>7 with PREA in August of 2016?</p> <p>8 A. I would say we were in a position of many jails that</p> <p>9 were working towards full compliance. We were</p> <p>10 complaint in many ways.</p> <p>11 Q. What were the ways that you weren't compliant in 2016?</p> <p>12 A. That we were not?</p> <p>13 Q. Right. That you were working toward.</p> <p>14 A. One of our challenges is the PREA standard of viewing</p> <p>15 inmates of the opposite gender. Because we don't have</p> <p>16 architecture that supports privacy screens for</p> <p>17 toileting and showering. And we talked about ways that</p> <p>18 we could change the building's architecture. But it</p> <p>19 seemed impossible that we're abandoning that jail. And</p> <p>20 we instead brought in rules like the knock and announce</p> <p>21 rule for opposite gender viewing.</p> <p>22 Q. Anything else in the 2016 area of not quite compliant,</p> <p>23 not quite there yet?</p> <p>24 A. Well, I think we were working on multiple standards at</p> <p>25 the same time to bring them into fruition, including a</p>	<p style="text-align: right;">Page 60</p> <p>1 A. I'm always reviewing them. I'm reviewing them all the</p> <p>2 time.</p> <p>3 Q. Are you on the – are you an expert on the standards?</p> <p>4 A. I know them well.</p> <p>5 Q. So, is that a yes or a no?</p> <p>6 A. Like I said, it depends on your definition of an</p> <p>7 expert. I would never say I know everything about</p> <p>8 something.</p> <p>9 Q. Okay. And in 2016, you took your first classes on the</p> <p>10 standards, right?</p> <p>11 A. Yes.</p> <p>12 Q. Were you an expert when you were taking those classes,</p> <p>13 or because you had taken the modules?</p> <p>14 A. Yeah, I'm not sure – do you want me to define expert?</p> <p>15 You know, I know more about it all the time. But what</p> <p>16 would you say, novice? Would you say growing? Would</p> <p>17 you say improving?</p> <p>18 Q. What were your qualifications to be the director of</p> <p>19 PREA, specific to sexual safety?</p> <p>20 I understand and I would never – I'm glad we</p> <p>21 have people who are long termers and have incredible</p> <p>22 experience. I see that you've educated yourself. But</p> <p>23 I am unsure of what your qualifications were to</p> <p>24 specialize in anything to do with sexual safety in</p> <p>25 prisons in the year 2016. Can you fill me in on that.</p>
<p style="text-align: right;">Page 59</p> <p>1 zero tolerance standard, which I thought was one of the</p> <p>2 most important PREA standards. And because that</p> <p>3 involves a culture change, and that was something I had</p> <p>4 discussions with command and written communication to</p> <p>5 help create a – everything I did was focused on zero</p> <p>6 tolerance, meaning a culture change. Meaning this is</p> <p>7 something we think about every day, even in regular</p> <p>8 transactions, that don't appear to be something that</p> <p>9 would contribute to a sexually charged environment, but</p> <p>10 could, and we were working on that. I think we were</p> <p>11 working on all the standards.</p> <p>12 Q. What standard are you talking about that –</p> <p>13 A. To come up to the zero tolerance standard, that we need</p> <p>14 to create a culture that supports that. That means</p> <p>15 roll-call education. Everything that we're doing to</p> <p>16 work towards that goal.</p> <p>17 Q. Is that still a work in progress?</p> <p>18 A. I think we are doing very well in that regard.</p> <p>19 Q. Any other areas of not being in compliance in August of</p> <p>20 2016?</p> <p>21 A. I can't recall at this moment.</p> <p>22 Q. Okay. So, the PREA standards, you're familiar with</p> <p>23 them?</p> <p>24 A. Yes.</p> <p>25 Q. When was the last time you reviewed them?</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Well, I believe that all of my staff are experts at</p> <p>2 providing custodial care for detainees. And they were</p> <p>3 experts – I mean, they're experts. It's what they do</p> <p>4 day in and day out, year after year, shift after shift,</p> <p>5 over and over. That's all they do is take care of</p> <p>6 prisoners and diffuse situations and intervene in</p> <p>7 dangerous situations and try to house people in the</p> <p>8 safest place, but least restrictive way possible. So</p> <p>9 many considerations. So, you know, 25, 30 years of</p> <p>10 doing that, I mean, who would know more than you,</p> <p>11 right, about that. And we're one of the state's larger</p> <p>12 offices, sheriff's offices. So, if you are going to</p> <p>13 define expert as you defined it, yes.</p> <p>14 Q. So, by that definition, I worked in the conditions.</p> <p>15 I've diffused situations. I dealt with many, many,</p> <p>16 many people. Then, by that definition, everyone who</p> <p>17 has been on staff for 25 years is equally qualified or</p> <p>18 not qualified to be the PREA director?</p> <p>19 A. To respond, protect, to assist with inmate needs,</p> <p>20 absolutely. So, do I have something more, yes. I have</p> <p>21 a Bachelors and a Masters. I've been to the police</p> <p>22 executive research forum. I'm with the state's largest</p> <p>23 sheriff's office. I have a great deal of knowledge</p> <p>24 about how to best care for inmates. There's no – I</p> <p>25 don't think that's a question.</p>

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<p style="text-align: right;">Page 62</p> <p>1 Q. My question is what, in the year 2016, set you apart  2 from others like Commander Cane or others like  3 Ms. Bell, one of the defendants in this case, who have  4 many, many, many years of taking care of prisoners in  5 conditions of confinement, specifically to the PREA  6 Act, and what it was bringing as a whole – your words,  7 a whole culture change. So, what did you have in 2016  8 – what did you have that spoke to the qualifications  9 to bring around a cultural change?  10 A. Because I had the executive skills to do that. I was  11 sergeant and commander and deputy chief. I inserted  12 myself in every aspect of our agency. And I did it  13 under four political administrations. There's no doubt  14 I would be qualified to do this. And you might know,  15 or you might not know, that agencies around the  16 country, there is a – the sergeant is the PREA  17 director or there is the lieutenant.  18 Q. Yes.  19 A. So, I'm qualified.  20 Q. Let's ask it this way: Did you have any education  21 specific to sexual trauma, sexual victimization, sexual  22 defiance, PREA, any formal education in those subjects?  23 A. Perhaps in my Bachelors program and psychology courses.  24 Q. Perhaps or you did?  25 A. I would think yes that I did.</p>	<p style="text-align: right;">Page 64</p> <p>1 finish.  2 BY MS. PRESCOTT:  3 Q. Did you have more to your last answer?  4 A. Just the fact that what we do every day is in the  5 interest of sexual safety, of suicide prevention, of  6 assault and batteries. Those are behaviors that we see  7 every day and react to every day.  8 Q. You didn't remember what the question had been. The  9 question had been isn't it true that you had to take  10 all this training in January of 2016 because you did  11 not have prior training on the PREA standards, what  12 each standard was, how it was going to be enforced, how  13 it needed to be operationalized, what other departments  14 in the country were doing, all those kinds of things,  15 you didn't have that prior to 2016; am I correct?  16 A. What was the first part of that question?  17 Q. Am I correct that at some point in 2016, you had not  18 had training and education to specialize in whatever  19 the different PREA standards were, how they were  20 operationalized, what other departments were doing  21 elsewhere, what they required, and so on?  22 A. My experience and my self study of that is what I have,  23 and then training courses.  24 Q. The 2016 training course, right?  25 A. Correct.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Okay. When you say it like that, it sounds like you  2 were imagining that's true, but you can't testify to it  3 under oath?  4 A. Well, it was a long time ago.  5 Q. Fair enough. I'm just asking for what you can sit here  6 and testify to under oath as a specific thing you  7 remember.  8 A. We're aware of the psychology of a lock-up. We're  9 aware of manipulation.  10 Q. I'm asking about education, formal education.  11 A. And I guess you asked that earlier. So, formally,  12 studying the Act, reading the Act, all my data from the  13 PREA resource training, taking every training that they  14 have to offer.  15 Q. Because you didn't know anything about what the Act's  16 ins and outs were, what the standards were, prior to  17 2016, correct?  18 MR. O'NEILL: Objection, contradicts prior  19 testimony.  20 A. Right. Because we were aware of it in 2003. And we  21 did –  22 BY MS. PRESCOTT:  23 Q. You were aware of it in 2002?  24 MR. O'NEILL: Excuse me. You interrupted the  25 witness, Sarah. Will you please allow the witness to</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Are you testifying that you took out the PREA Act at  2 some point prior to becoming involved as PREA director  3 and you read the Act?  4 A. Prior to '16?  5 Q. Yeah.  6 A. Sure.  7 Q. When?  8 A. As the deputy chief of jails in 2012. Maybe '11, '12,  9 '13. We had meetings on PREA even in those years.  10 Q. So, why weren't staff being trained on PREA in 2012 and  11 '13 if you were reading the Act and seeing that, as you  12 say, your very most important standard said that you  13 were to ensure the sexual safety, prevention,  14 detection, and response?  15 A. And don't forget every employee had that training in  16 the correctional academy.  17 Q. Why do you even have PREA training now then if you just  18 go to the academy one day and you get, as you  19 described, introduced to the concept that there was –  20 there is a Prison Rape Elimination Act? Why do you  21 have the training? Why don't you just rely on what's  22 at the academy?  23 A. I think the answer to that is we see that in the  24 standard and we exceed the standards requirement.  25 Q. So, your testimony is you're exceeding the requirements</p>

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<p style="text-align: right;">Page 66</p> <p>1 of PREA in 2012 and '13 when it came to employee 2 training? 3 A. And in 2016. 4 Q. I'm back to your point. You said in 2012 and 2013 5 you're a leader in this department. And a leader of 6 all of the experts. You're pulling out the Act and 7 reading it and self studying it. So, I'm in 2012 and 8 2013 now. And my question is why the department, if 9 people like you are there self studying it, why doesn't 10 the department roll out training on PREA. And you 11 answered well, they got it at the academy. And I said 12 well then why do they have it now? Why do the PREA 13 training now after the academy, if you can just rely on 14 the first day before you were a sworn officer? That's 15 the question. 16 A. It's a long-term process to meet and exceed all the 17 standards. And that's certainly our goal. If I'm 18 recalling 2012 and '13, we're talking about standards 19 like the youthful offender standard where we were 20 struggling to create wards to house 17 year olds to 21 comply with the Act. So, there are many pieces of the 22 Act that we're working on as command in those years. 23 And we were able to correct the staffing plan to allow 24 for the formation of the youthful detainer ward. So, 25 there was other considerations going on.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Yes, I understand that. You're not here today to say 2 that the Prison Rape Elimination Act didn't bring in a 3 water shed change in the way that employees were to be 4 trained and the entire culture shift that you described 5 that it required, are you? 6 A. No. I'm trying to follow your question. 7 Q. I appreciate that. Because it was a hard one to get 8 right. 9 So, you have testified that PREA issued an 10 awareness that there needed to be, in the entire 11 industry, in the entire profession, a cultural – all 12 the way down to a cultural change, right? 13 A. Correct. 14 Q. So, while there may have been all kinds of stuff in 15 1980 or 1970 or 19 whatever, we needed to change things 16 and congress made a bunch of findings about why, right? 17 A. Yes. 18 Q. Because prison rape was described to be a serious 19 problem and it was happening a lot, right? 20 A. Yes. 21 Q. No matter what the training had been, it wasn't 22 stopping prison rape enough, according to U.S. 23 government? 24 A. Because one is too many. 25 Q. There was a huge problem seen by the government and</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. At what point did anyone say we need to determine which 2 employees have not received training on the PREA 3 standards because they haven't gone to an academy that 4 required it, or because they went to our academy before 5 the year 2003? When did that discussion happen? 6 A. There's two parts to that. There isn't anyone working 7 that hasn't had exposure to the PREA requirement and 8 the jailers training in the state of Michigan. Because 9 my recollection is it is part of the MSTC official 10 academy. And I know that we have a module in ours. 11 So, that may be one part. So, everyone is going to 12 have training on PREA. As you say initially – 13 Q. Okay. But if you follow my point, if I go to the 14 academy in the year 2002, I don't have any exposure to 15 the concept of the Prison Rape Elimination Act; do you 16 agree with that? 17 A. Well, if the Prison Rape Elimination Act didn't exist 18 in 2003 or didn't exist in 2002 – 19 Q. Right, it didn't. 20 A. So, what they have would be sexual safety training, 21 just a viewpoint from a professional correctional 22 officer, that this is something that we pay attention 23 to, that is risk of suicide, risk of assault and 24 batteries, risk of sexual predation is a risk that is 25 always trained.</p>	<p style="text-align: right;">Page 69</p> <p>1 they made factual findings about that at the beginning 2 of the Act; you're familiar with that, right? 3 A. Yes. 4 Q. So, they said we need to change things, and here comes 5 2003 and they pass the Act. Everyone who had gone to 6 the academy before 2003 has not been part of what now 7 is going to change. So, my question for you is because 8 they couldn't be – because it wasn't passed, right, 9 and the cultural shift that we were going to do, and 10 the water shed moment hadn't begun. So, my question to 11 you is when the Wayne County sheriff's office said we 12 got to go back and we got to pick up everybody who has 13 been here since before 2003, or didn't go to our 14 academy, and they didn't have PREA-specific training, 15 when did they decide we got to do that? 16 A. You know, that's a question that we could defer to the 17 2012 training center. I'm not sure, sitting here right 18 now. Because we always do in-service training. And I 19 was instrumental in training, our education system that 20 we had at the time. And the training center was 21 responsible for putting out program matter, in-services 22 every year. So, sitting here, I'm not sure that there 23 wouldn't have been something that they would have taken 24 in those years. 25 Q. Was there a zero tolerance policy on sexual assault and</p>

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<p style="text-align: right;">Page 70</p> <p>1 sexual harassment promulgated with that kind of work</p> <p>2 and that kind of cultural construct before 2002 at the</p> <p>3 Wayne County jail?</p> <p>4 A. I don't know if there was 1417 prior to the 2009 that's</p> <p>5 a revision. I'm not sure.</p> <p>6 Q. You're aware that PREA said that current employees who</p> <p>7 have not received PREA training had to have it within</p> <p>8 one year of the effective year of the PREA standards,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. And you're also aware that the agency was required to</p> <p>12 provide refresher training to all employees, even when</p> <p>13 they had had something back at the academy, every two</p> <p>14 years, right?</p> <p>15 A. Yes.</p> <p>16 Q. So, was there an audit done of who got what, and who</p> <p>17 needs what, where is everybody in their two years, did</p> <p>18 they get it at what academy? Are you aware of any kind</p> <p>19 of audit of that nature?</p> <p>20 A. I was not in the training center in those years. I'm</p> <p>21 not aware of any actions that would have been taken</p> <p>22 regarding that.</p> <p>23 Q. And, in fact, when you come in in 2016, and you say</p> <p>24 everybody please order that there be this PREA</p> <p>25 training, it's because of this standard saying that</p>	<p style="text-align: right;">Page 72</p> <p>1 conflict with the federal rule. And in Michigan, a 17</p> <p>2 year old cannot be housed in an adult jail. It</p> <p>3 violates PREA.</p> <p>4 Q. So, a state judge enforced state law and ordered that</p> <p>5 youth 17 and under be removed, right?</p> <p>6 A. I think so.</p> <p>7 Q. And so, that happened in 2013. And clearly by then,</p> <p>8 the department knew this PREA, these PREA rules, we're</p> <p>9 supposed to be following and enforcing them, right?</p> <p>10 A. Yes.</p> <p>11 Q. Was there a memo or any kind of writing by anybody to</p> <p>12 say you guys, we're supposed to be training, we're</p> <p>13 supposed to have these refreshers for every single</p> <p>14 staff member for PREA? It came in effect in 2012.</p> <p>15 We're not doing that. Was there any memo that talks</p> <p>16 about hey, here's what we're not compliant with, you</p> <p>17 guys; any time ever that you've seen?</p> <p>18 A. I don't recall from 2012.</p> <p>19 Q. How about '13, '14, '15, '16?</p> <p>20 A. I don't recall prior to mine.</p> <p>21 Q. Well, you didn't write a memo saying here's what we're</p> <p>22 not compliant with?</p> <p>23 A. Regarding training?</p> <p>24 Q. Or anything. Any of the standards, did you?</p> <p>25 A. Well, there's several memos in there that are dealing</p>
<p style="text-align: right;">Page 71</p> <p>1 people needed to get refresher training on a regular,</p> <p>2 at least two-year basis, right?</p> <p>3 A. Correct.</p> <p>4 Q. So, why did anybody issue that order in 2012 or 2013</p> <p>5 when, as you say, people were sitting around in the</p> <p>6 command offices self studying this thing?</p> <p>7 A. I think I said we were acting on other portions of the</p> <p>8 Act in order to attempt to come into compliance.</p> <p>9 Q. Isn't it true -- isn't it that even the Act that had</p> <p>10 been passed, one of the things that happened is that a</p> <p>11 Wayne County judge said you had to move all the youth</p> <p>12 and they couldn't be kept with the adults in 2013; do</p> <p>13 you remember that?</p> <p>14 A. I don't remember. I don't remember the specific order.</p> <p>15 I know we created a youthful ward.</p> <p>16 Q. So, you don't recall that you just didn't create it,</p> <p>17 that it had to be litigated over and a judge ordered</p> <p>18 it?</p> <p>19 MR. O'NEILL: Objection, foundation. Go</p> <p>20 ahead and again answer, if you can.</p> <p>21 BY MS. PRESCOTT:</p> <p>22 Q. I'll ask it again. You're not aware that a judge had</p> <p>23 to order that the department take the kids out of the</p> <p>24 adult areas because of PREA in 2013?</p> <p>25 A. I recall that happening regarding state laws, a</p>	<p style="text-align: right;">Page 73</p> <p>1 directly with standards that need improvement.</p> <p>2 Q. Okay. You understood that the policy also needed to be</p> <p>3 revised and that's why you were working on it, right,</p> <p>4 because of PREA, right?</p> <p>5 A. We chose to update the 2009 version to incorporate more</p> <p>6 of the PREA rules, yes.</p> <p>7 Q. And so, what, whether it's the training, whether it's</p> <p>8 the policy -- let's go to auditing. PREA requires</p> <p>9 audits for sexual safety. That's a standard that is</p> <p>10 part of the law since 2012 at least; are you familiar</p> <p>11 with that?</p> <p>12 A. Yes.</p> <p>13 Q. There's never been an audit, right?</p> <p>14 A. We plan on having an audit in the new facility.</p> <p>15 Q. But there hasn't been one yet?</p> <p>16 A. There hasn't been one at the current jail.</p> <p>17 Q. So, in that respect, and maybe others, but at least in</p> <p>18 that respect, still no compliance with PREA right up to</p> <p>19 2021, right?</p> <p>20 A. With respect to audits, yes.</p> <p>21 Q. And I guess I can -- can you help me understand the</p> <p>22 thinking. This jail is so old and the facility is</p> <p>23 literally -- cannot comply with PREA, like cross-gender</p> <p>24 viewing. Therefore, we're not going to audit what</p> <p>25 might be dangerous in this facility. I don't</p>



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<p style="text-align: right;">Page 74</p> <p>1 understand the thinking of putting off the audit to</p> <p>2 move away from where, you know, you have PREA problems.</p> <p>3 A. Well, we want to comply and want to work towards</p> <p>4 complying, and our goal is to do that. And I think we</p> <p>5 made significant progress. I don't think we felt like</p> <p>6 that this would help us, because it would negate – the</p> <p>7 new facility would need to have a hundred percent</p> <p>8 compliance audit. And trying to bring 1926 into a 21st</p> <p>9 century state-of-the art detention facility, you know,</p> <p>10 there would never be – I don't know how we could pass</p> <p>11 that audit.</p> <p>12 Q. When you say 1926, you're talking about the date that</p> <p>13 the Wayne County jail was open?</p> <p>14 A. Yeah. Well, not open, but that particular building.</p> <p>15 Q. That particular building. And so, your point is there</p> <p>16 wasn't a way to pass the audit in the building that you</p> <p>17 were in?</p> <p>18 A. There may have been a way, but the resources might not</p> <p>19 have been – it might not have made sense to do that.</p> <p>20 I mean, it didn't comply in any way. And interesting,</p> <p>21 we do comply with the cross-gender viewing in that</p> <p>22 building, but we don't have privacy screens there.</p> <p>23 Q. Okay. So, any other reason that audits haven't been</p> <p>24 conducted to this point?</p> <p>25 A. Just that we're working towards that. That's our goal.</p>	<p style="text-align: right;">Page 76</p> <p>1 with sprinkler systems. We have spent a lot of money</p> <p>2 trying to make that jail safer and more comfortable for</p> <p>3 the inmates just within the last 20 years.</p> <p>4 Q. That's because the inmates took the sheriff and the</p> <p>5 county to court and said the conditions of confinement</p> <p>6 here are, I think the word was barbaric, and the court</p> <p>7 ordered a whole slew of improvements to be made. When</p> <p>8 the sheriff was in public saying we can't even invest</p> <p>9 in this building when we're going to be moving. Does</p> <p>10 that history sound familiar?</p> <p>11 A. Well, we weren't moving. The case is from 1971. And</p> <p>12 we were building a new facility for 1984.</p> <p>13 Q. Right. And the sheriff publicly said that the office</p> <p>14 had stopped doing anything improvement wise in the jail</p> <p>15 because they expected to move. Do you recall that?</p> <p>16 MR. O'NEILL: Objection, foundation.</p> <p>17 A. Yeah, I can't recall that.</p> <p>18 BY MS. PRESCOTT:</p> <p>19 Q. You don't recall that?</p> <p>20 A. No.</p> <p>21 Q. You don't recall that the sheriff had to go down and</p> <p>22 there was a whole court case in 2013 and '14 and fight</p> <p>23 over the fact that there wasn't even money and they</p> <p>24 couldn't keep investing? You don't remember that?</p> <p>25 A. I was not there in '14. I don't recall that.</p>
<p style="text-align: right;">Page 75</p> <p>1 And many other sheriff's offices are also working</p> <p>2 towards that goal.</p> <p>3 Q. Okay. You've never worked at any other sheriff's</p> <p>4 office, correct?</p> <p>5 A. Correct.</p> <p>6 Q. You've never been detailed to another sheriff's office</p> <p>7 or whatnot, have you?</p> <p>8 A. No.</p> <p>9 Q. Are you aware of the classification systems that are</p> <p>10 used and were used in 2016 to screen for risk of</p> <p>11 potential victimization and potential aggressors</p> <p>12 pursuant to PREA in other facilities around the region?</p> <p>13 A. No. I'm not in the technology group. So, the</p> <p>14 awareness may be with our technology group. That is</p> <p>15 their responsibility for a new computer system in the</p> <p>16 new jail. I'm sure they're aware of it.</p> <p>17 Q. Isn't it true that the department has made calculated</p> <p>18 decisions over the years to forego investments in</p> <p>19 safety and security and upgrades at the 1926 jail, as</p> <p>20 you put it, because the hope and expectation was that</p> <p>21 prisoners wouldn't be housed there much longer?</p> <p>22 A. No, I don't think that's true. I think we went through</p> <p>23 extensive renovations and changes and spent millions</p> <p>24 and millions of dollars adding and making it safer for</p> <p>25 prison inmates with lighting, with air-conditioning,</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. But just to finish up this section, you never went back</p> <p>2 to a list of standards and said let's take out the list</p> <p>3 and let's line up where we're meeting and where we're</p> <p>4 not meeting and put that in writing, right? You never</p> <p>5 did that?</p> <p>6 A. That's what we did all in 2016.</p> <p>7 Q. Where is it? I'm asking did you put down on paper</p> <p>8 here's what we're missing and here's where we're</p> <p>9 complying?</p> <p>10 A. Not like that.</p> <p>11 Q. Okay.</p> <p>12 A. I think there is a record of the standards that we</p> <p>13 worked on in 2016.</p> <p>14 Q. And so, you can't testify, even sitting here today,</p> <p>15 that the jail – what items it was in compliance on and</p> <p>16 what it wasn't in compliance with in 2016, can you?</p> <p>17 A. My understanding is we were most in compliance with the</p> <p>18 Act in 2016, moving towards compliance.</p> <p>19 Q. Now, you said that everybody gets training on PREA and</p> <p>20 everybody has had it. You don't know the date that</p> <p>21 everybody got their statutory or their</p> <p>22 federally-required PREA training completed in the jail</p> <p>23 that you asked for it to happen, right?</p> <p>24 A. Other than it was done in that year.</p> <p>25 Q. For example, the lady who put Solomon down in the</p>

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<p style="text-align: right;">Page 78</p> <p>1 classification that apparently allowed him to be with  2 my client, she got the training on the day my client  3 was raped, according to a little certificate. You  4 would agree with me that that doesn't help someone for  5 someone to get PREA training after they've already gone  6 through the steps that lead to these two people being  7 housed together?  8 A. How would she magically know about that.  9 Q. Are you aware whether the classification staff had any  10 PREA training, any kind of sexual assault – some of  11 them aren't officers. They didn't go to the academy.  12 Are you aware of that?  13 A. So, if they didn't attend, they were required to take  14 this in-service training regardless. They might have  15 attended a civilian jailers training. We used to do  16 that. I'm not aware what they were doing with civilian  17 training.  18 Q. They may have. But the records we got show they  19 didn't, after processing Burks and Solomon through, and  20 they didn't go to the academy. Were you aware that  21 that was the state of training and education in the  22 office in 2016 like so? In 2016, were you aware of  23 that?  24 A. Well, I'm aware that even civilians get training before  25 they start. And we always had an avenue to train them</p>	<p style="text-align: right;">Page 80</p> <p>1 computers.  2 Q. Fair enough. Listen, I understand you came into this  3 in January. I understand that. My point is the PREA  4 standards came in in 2012. PREA was enacted in 2003.  5 And in none of that time, all of those prisoners that  6 went through, the hundreds of thousands of people that  7 were processed through those years, are going through  8 with classification people who, according to our  9 records, aren't getting any kind of training, some of  10 the civilians especially, and did you know that?  11 A. No. Because, like I said, we train civilians. So, I  12 don't look at them as being different or exempt from  13 training.  14 Q. What training did the woman who had classified Solomon  15 have on the day that she classified him; do you know  16 that?  17 A. No.  18 Q. Do you know that she is basically an admin clerk?  19 A. I do not know that.  20 Q. Do you recall that it used to be that sworn officers  21 did interviews with inmates and did like a worksheet  22 with them as part of the old way things used to be done  23 when they were classified?  24 A. I'm aware that it's changed over time. That that was a  25 way in the past.</p>
<p style="text-align: right;">Page 79</p> <p>1 in a civilian-style academy. So, without guns or –  2 Q. That's fair. Rolling back to the tape in your memory  3 to 2016, do you recall being aware that classifications  4 were being handled by people who were not getting any  5 academy training, let alone the two-year refresher  6 training that was supposed to be going on?  7 A. I would be aware, and was aware, that there would be  8 civilians working in various places in the agency. But  9 they wouldn't be exempt from this updated training.  10 Q. And they weren't – it is just that it came after they  11 dealt with my client. So, I appreciate that now in the  12 year 2021 they've gotten the training, and maybe even  13 some refreshers that they're supposed to. Maybe  14 they're getting the refresher trainings they're  15 supposed to get. My question is whether in 2016 you  16 were aware that the staff, in classification in  17 particular, didn't get any sexual assault training?  18 A. I would just be aware of the directive that they all  19 received the training, including classification, and  20 not excluding anyone.  21 Q. Right. That you gave that didn't go into effect until  22 – you don't even know when it was completed. Some  23 time in 2016, right?  24 A. I gave the division some freedom to make their own end  25 dates based on their individual needs and access to</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. But you're not aware of what the policy was that an  2 officer would go through a worksheet with each inmate  3 and like an actual interview?  4 A. If that's true, it's in the classification policy.  5 Q. Yeah. From long ago. But that's not something that  6 you're familiar with?  7 A. Well, I'm familiar with that that process happens and  8 that someone interviews them, medically reviews them,  9 and all the general steps.  10 Q. So, why did it change to the process that's going –  11 whatever the process is today? Do you know why it  12 changed? Was it resources?  13 A. I wouldn't be – I wouldn't have been part of the  14 discussion.  15 Q. Nobody ever said hey, you know, you've been retained,  16 you've been deputized, you're on board, why don't you  17 sort of gather a memo of where we're falling down on  18 the PREA standards or where we're doing really great?  19 MR. O'NEILL: Objection, asked and answered.  20 BY MS. PRESCOTT:  21 Q. It sounds like no one ever asked you to do that kind of  22 a write-up, right?  23 A. Well, I guess my answer is I took it upon myself to  24 take it in smaller bites, to send it out with directive  25 changes.</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. Command staff above you never said please do this, 2 right? 3 A. No, that I recall. 4 Q. Some basics on the policy piece. Is it your 5 understanding that written policies are meant to be 6 picked up by anybody in the department who can read it 7 and understand it and implement it, this is what we do, 8 that's what the written policies are for? 9 A. Yes. 10 Q. Do you think that someone who picks up the policies 11 about operations knows how the department really works 12 when they read the policies? Or do you think that the 13 policies are just sort of guidelines that aren't really 14 reflecting actual practice? 15 A. I think the policies do reflect practice. And I don't 16 think it's realistic to assume that we would just sit 17 someone down and say here's 500 pages, now go do those 18 things. It doesn't happen like that. 19 Q. I'm saying if someone like me, if I read the policies, 20 am I seeing what is really happening? Is there like a 21 de facto set of actual practices that aren't what the 22 policies show? 23 A. I don't think there is a de facto set of policies. I 24 think the policies work in a totality where, you know, 25 over time and distance all these policies they don't –</p>	<p style="text-align: right;">Page 84</p> <p>1 it, they were expected, told what they were expected to 2 do, right? 3 A. I don't look at policy as a tools to punish people. 4 Q. But one nice thing about having policies is it puts 5 people on notice of what their expectations are for 6 their conduct, right? 7 A. To help them carry out their job. 8 Q. Yeah. 9 A. Yes. 10 Q. And some of the policies are there because they're 11 needed to keep prisoners and staff safe, right? 12 A. Yes. 13 Q. And policies are – when they're written, and it sounds 14 like when you went through your whole process, and it 15 took a long time, it takes a long time because once a 16 policy is in place, it's an order, it's a command. You 17 don't get to pick and choose if you want to follow it, 18 correct? 19 A. That's correct. 20 Q. You testified about your level of awareness of Burks 21 and Solomon and who assigned them together, to be 22 together. Do you recall being asked about that? 23 A. I don't, but I don't have an awareness of who 24 classified them and housed them. 25 Q. How about were you honest when I asked you about what</p>
<p style="text-align: right;">Page 83</p> <p>1 they're not – I don't believe they can work and just 2 read this one. I mean, they just all work together and 3 they all come from a different intention, let's say, 4 right. So, there's – but it doesn't mean that other 5 things don't affect what's happening in that policy. 6 So, it's a complex environment. 7 Q. So – are you finished? I don't want to cut you off. 8 A. No, go ahead. 9 Q. I'm not sure I understand. You said there is not a de 10 facto set of the way we really do it, policies. And 11 then you just told me there is a complicated system and 12 everything affects it. Are you saying there is a de 13 facto set of different practices? 14 A. No. I'm saying there are other policies that help you 15 understand the individual policy. If you have a 16 question, most likely there is another policy that's 17 answering that question. Because it is – they can be 18 very specific. 19 Q. And part of the reasoning you have policies is so that 20 the enforcement of expectations can be fair to the 21 staff and to the prisoners, right? 22 A. Enforcement of rules. 23 Q. So what you're enforcing, it's actually you already 24 knew this, you have the policies. So that when you 25 have to enforce your rules, it's fair they knew about</p>	<p style="text-align: right;">Page 85</p> <p>1 you knew about whether people were following internal 2 policies about sexual assaults and assault and 3 batteries and how they were managed? 4 A. Well, I'm not here to lie. 5 Q. I'm asking about your prior testimony. You didn't see 6 anything wrong with your prior testimony about who was 7 following policy, what you knew about who was following 8 policy, correct? 9 A. Well, my assumption is that people follow the policy. 10 Q. Well, okay. My question was whether or not you recall 11 seeing anything wrong in your prior testimony about 12 what you knew, what you know when it comes to who 13 followed internal policies or who didn't regarding 14 Solomon's placement? 15 A. I still don't know that. I don't recall what's written 16 in my prior testimony, but I don't know that. 17 Q. You aren't somebody who has a – who has a particular 18 knowledge of the classification process, such as the 19 screening documents and the steps, right? 20 A. I have not been in command over that. 21 Q. And you still don't know whether the classification 22 process was handled according to policy or not? Or you 23 can't comment about the classification process with 24 Solomon and Burks, can you? 25 A. No. Because I don't – I really don't understand. I</p>



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<p style="text-align: right;">Page 86</p> <p>1 mean, I wasn't part of that. So, I don't have any</p> <p>2 direct knowledge of it. But I do believe that they</p> <p>3 correctly classified people. They're very good at it.</p> <p>4 I have no reason to believe that they wouldn't properly</p> <p>5 classify anyone.</p> <p>6 Q. But you don't have any specific knowledge particular to</p> <p>7 Solomon or Burks in that regard, right?</p> <p>8 A. No.</p> <p>9 Q. Same question with regard to the screening process with</p> <p>10 regard to either of them. You don't know anything</p> <p>11 specific about Solomon and Burks and the screening</p> <p>12 intakes?</p> <p>13 A. No.</p> <p>14 Q. We talked about management of offenders or prisoners in</p> <p>15 the last deposition. Just to be clear on our</p> <p>16 terminology, when I say management of a prisoner, I</p> <p>17 mean like how they're moved. You know, where they</p> <p>18 might be housed. What programming they might receive.</p> <p>19 Is that your understanding?</p> <p>20 A. I understand what you're saying. I don't recall the</p> <p>21 testimony.</p> <p>22 Q. Does that understanding of management line up with the</p> <p>23 way you use the word management? When I say how is</p> <p>24 that prisoner managed, do you understand that to be in</p> <p>25 reference to how they were housed, what programming</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes. 610 was a protection ward. And you would be</p> <p>2 moved there if you had some sort of concern. Either</p> <p>3 the inmate or the housing officer would detect that</p> <p>4 would be a place to eliminate the general population</p> <p>5 interacting.</p> <p>6 Q. Is protective custody supposed to be a place where the</p> <p>7 custody is more protective than general population?</p> <p>8 A. In the sense that you don't want to interact with</p> <p>9 another specific person or a specific group or you just</p> <p>10 might feel safer with less people around you. I mean,</p> <p>11 I think there's a wide range of reasoning for</p> <p>12 separating someone from the general population.</p> <p>13 Q. Yes, I agree. But, for example, there could be two</p> <p>14 different types of people. There could be Hannibal</p> <p>15 Lecter, who is going to eat anybody that he is housed</p> <p>16 with, and very extremely scary and can't be trusted, or</p> <p>17 an elderly grandfather who is 104 and can barely move.</p> <p>18 Can both of those people be put into protective custody</p> <p>19 in the same thing, in the same little interacting unit?</p> <p>20 A. I think the answer is it depends. I mean, I'm trying</p> <p>21 to think through your scenario. And it would be</p> <p>22 unlikely someone who could barely move would be –</p> <p>23 might be in the medical ward for care and custody.</p> <p>24 Someone who, you know, eats other people, I think they</p> <p>25 would be housed in a more restrictive environment like</p>
<p style="text-align: right;">Page 87</p> <p>1 they went to, where they were moved in the facility?</p> <p>2 A. I think of that term as housing.</p> <p>3 Q. Okay. Do you understand that in August of 2016, the</p> <p>4 Wayne County sheriff's office knew that my client,</p> <p>5 Mr. Burks, was at a serious risk of attack from other</p> <p>6 prisoners within his walls?</p> <p>7 A. I don't know. I don't have knowledge of that.</p> <p>8 Q. Do you know whether the Wayne County sheriff's office</p> <p>9 knew that he was a particularly vulnerable prisoner in</p> <p>10 August of 2016?</p> <p>11 A. I don't have any knowledge of that.</p> <p>12 Q. Do you know if anyone knew that he had never been in</p> <p>13 prison before or jail before?</p> <p>14 A. I don't know.</p> <p>15 Q. You don't know. Did the Wayne County sheriff's office</p> <p>16 take action relative to Burks and his vulnerable status</p> <p>17 because he presented a harm to himself in particular?</p> <p>18 A. Based on him being housed in the protection unit, I</p> <p>19 think they specifically drew the conclusion that they</p> <p>20 put him there as a solution to what they viewed as a</p> <p>21 risk.</p> <p>22 Q. Okay. But do you know whether that's why he was there?</p> <p>23 A. No.</p> <p>24 Q. Okay. And so, what is the special unit you're</p> <p>25 referring to, protective custody?</p>	<p style="text-align: right;">Page 89</p> <p>1 maximum.</p> <p>2 Q. What if they have just been convicted of mutilating</p> <p>3 dead bodies and raping young children, they don't go to</p> <p>4 maximum security, do they?</p> <p>5 A. So, then you moved on to how do you determine those</p> <p>6 conditions. And that's a different question.</p> <p>7 Q. Okay. But let's go to this one. People who are</p> <p>8 charged with mutilating dead bodies and raping children</p> <p>9 and rape and mayhem. And then people that have been</p> <p>10 convicted of, you know, bad check writing. They've</p> <p>11 never been convicted of eating people and mutilating</p> <p>12 dead bodies. They don't go to maximum security at the</p> <p>13 Wayne County jail; you're aware of that?</p> <p>14 A. I think the answer is it depends on – it depends on</p> <p>15 what they're presented with.</p> <p>16 Q. So, they can, but they don't necessarily go to maximum</p> <p>17 security is your point?</p> <p>18 A. Well, I think that's true for every prisoner that's</p> <p>19 classified. I think they make decisions on what they</p> <p>20 see.</p> <p>21 Q. If they see, in the classification ward, that Solomon</p> <p>22 had been arrested for mutilating a dead body, sexually</p> <p>23 offending 13 to 15 year olds, why didn't they override</p> <p>24 anything and put him in maximum security?</p> <p>25 A. I don't have any knowledge of what they saw or didn't</p>

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<p style="text-align: right;">Page 90</p> <p>1 see or how to classify that.</p> <p>2 Q. So, going back to policy then, are you aware that in</p> <p>3 the year 2016, protective custody was being used as a</p> <p>4 place to put people who were difficult to manage due to</p> <p>5 institutional misconduct, difficulty with others,</p> <p>6 prisoner rock bossing, and so on, at the same time, in</p> <p>7 the same ward, putting people who were vulnerable to</p> <p>8 attack? They're mixing those two groups in the same</p> <p>9 ward; did you know that in 2016?</p> <p>10 A. I would say, again, that it would depend on the facts</p> <p>11 presented. There are many reasons you might not want</p> <p>12 to be in general population.</p> <p>13 Q. I'm saying that are you aware that that pattern was</p> <p>14 occurring in 2016?</p> <p>15 A. I'm not aware of that as a pattern, no.</p> <p>16 Q. Are you aware of that ever occurring?</p> <p>17 A. I'm not aware of them dangerously putting people</p> <p>18 together, no.</p> <p>19 Q. So, you understand that it would be dangerous to put a</p> <p>20 vulnerable person in with somebody who was difficult to</p> <p>21 manage, having problems with others, rock bossing,</p> <p>22 manipulating others, raping people, violating and</p> <p>23 raping bunkies, and so on; you would not put those two</p> <p>24 together, would you?</p> <p>25 A. I think it's an impossible sort of question if we don't</p>	<p style="text-align: right;">Page 92</p> <p>1 housing options that we have. There is single cell.</p> <p>2 There is isolation. There's more housing available for</p> <p>3 someone who is so vulnerable. I just can't agree that</p> <p>4 it's A or B.</p> <p>5 Q. You can't agree that it's something that should be done</p> <p>6 or shouldn't be done?</p> <p>7 A. Well, no one is going to advocate for harming people</p> <p>8 through housing. I mean, no one is going to say that.</p> <p>9 Q. I understand. I'm talking about what is smart to do in</p> <p>10 order to keep people peaceful, happy, safe prisoners.</p> <p>11 A. Yeah, they do that every day.</p> <p>12 Q. People that aren't raped. And I'm asking you, in my</p> <p>13 scenario, do you think that those two prisoner groups</p> <p>14 that I just described, or profiles I just described,</p> <p>15 are people that are properly housed together? Do you</p> <p>16 need me to repeat it?</p> <p>17 A. Yeah. If you want me to answer a hypothetical, I need</p> <p>18 to understand the parameters.</p> <p>19 Q. You're here today to be an expert, right; you</p> <p>20 understand that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And you're here today citing your expertise and</p> <p>23 all of the years of experience. So, that's why I'm</p> <p>24 asking the hypothetical. A particular person who the</p> <p>25 Wayne County jail has identified as being vulnerable to</p>
<p style="text-align: right;">Page 91</p> <p>1 have the facts of what they knew.</p> <p>2 Q. I didn't ask what anyone knew. I'm saying you, with</p> <p>3 your PREA lens over this stuff, you wouldn't think</p> <p>4 those two should go together, that I just described,</p> <p>5 would you?</p> <p>6 A. Again, I'd have to understand what are you – the</p> <p>7 variables are so numerous. You'd have to look at the</p> <p>8 two cases individually. Individually, through any</p> <p>9 lens, including a PREA lens, and make that</p> <p>10 determination. Is there a time when it doesn't work</p> <p>11 out and we have to move them, perhaps. If that's what</p> <p>12 you're asking. But the idea that we would, you know,</p> <p>13 make mistakes, you know, I think we're very good at not</p> <p>14 making mistakes, considering the amount of variables</p> <p>15 and what they're presented with every day.</p> <p>16 Q. Okay. So, let's stipulate that you imagine there could</p> <p>17 be lots of variabilities. My question is do you, with</p> <p>18 your PREA lens, think it's appropriate to put together,</p> <p>19 into the same ward, a person who is understood to be an</p> <p>20 especially vulnerable person and a person who is</p> <p>21 understood to be especially dangerous and difficult to</p> <p>22 deal with, as demonstrated by interactions with other</p> <p>23 prisoners, as demonstrated by their record? Do you</p> <p>24 think that those two should be placed together?</p> <p>25 A. I don't see how it's possible, considering all the</p>	<p style="text-align: right;">Page 93</p> <p>1 be attacked by other prisoners, should that profile of</p> <p>2 a person be housed with the profile of a person that</p> <p>3 has been repeatedly charged with rape, mutilating dead</p> <p>4 bodies, raping children, difficult to manage in the</p> <p>5 facility, breaking rules, rock bossing people, a</p> <p>6 pattern of institutional misconduct?</p> <p>7 A. I would answer – again, I would answer it depends. I</p> <p>8 mean, you could have all these cases but they might</p> <p>9 have been dismissed, or never charged. Are they</p> <p>10 convictions. Are they – I mean, are they convicted of</p> <p>11 the crimes. I mean, I think your second scenario is</p> <p>12 too broad.</p> <p>13 Q. Okay. Well, let's just take a normal 65-year-old that</p> <p>14 can get up and down but they're never been in jail</p> <p>15 before. They don't have any, you know, history.</p> <p>16 They're not a hardened criminal. And somebody who is</p> <p>17 accused and brought in for mutilating dead people. He</p> <p>18 hasn't been convicted though, but he's been arrested</p> <p>19 for just a pattern of dozens of rapes and mutilating</p> <p>20 dead bodies. Should those two people be together?</p> <p>21 MR. O'NEILL: Objection, we're getting so far</p> <p>22 afield on relevance.</p> <p>23 BY MS. PRESCOTT:</p> <p>24 Q. Go ahead.</p> <p>25 MR. O'NEILL: You can answer if you can.</p>

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<p style="text-align: right;">Page 94</p> <p>1 A. You know, I think I answered this already. If you're 2 going to have these extreme scenarios, the answer is 3 going to be no. But I think it's gray. It's not black 4 and white. 5 BY MS. PRESCOTT: 6 Q. Why is the second scenario any different just because 7 – I mean, do you look at charges when putting people 8 together? 9 A. For them it's real life. It's in the scenario. 10 Q. Trust me. I'm on this side of the table standing next 11 to the person that's been raped. So, I got that. My 12 question for you is does the person who is extremely 13 scary because of their charges, does that ever come 14 into it? 15 A. Yes. 16 Q. Does this department ever look at that? 17 A. Of course they do. 18 Q. Okay. So, why was Solomon a person who had been 19 charged over and over and over again with raping 20 people, who had been convicted of raping people, who 21 had been found to rape bunks in the facility, why was 22 he housed with my client? 23 MR. O'NEILL: Objection, mischaracterizes the 24 record. You know, Ms. Prescott – 25 MS. PRESCOTT: You don't need to verbally –</p>	<p style="text-align: right;">Page 96</p> <p>1 inmates have problems, they get moved. And the fact 2 that they had a reason to put them there. And that the 3 housing officer would say hey, this officer is having, 4 or this inmate is having problems on this floor, or 5 with the general population, what can we do. And 6 sometimes, somehow – I mean, that's so – I think it's 7 clear that there was some efforts made to protect both 8 of those prisoners. 9 Q. Isn't it true that the individual floor security staff 10 have no ability whatsoever to remove a prisoner from a 11 dangerous situation that they are witnessing on a 12 floor? They can't do that? 13 A. That's wrong. They can do that. 14 Q. They don't have the authority or ability to do that, do 15 they? 16 A. They do. 17 Q. That's just on paper though. That's not practically 18 happening. 19 A. I think you're wrong there. Because every move that 20 happens starts with the housing officer's observation. 21 Everything, of course, they do, they need guidance so 22 they don't put people in the wrong place. Yes, they 23 do. But it all starts with them, if they see people 24 who are sad, and might be at risk of suicide. What 25 they see in their daily job, that all gets condensed.</p>
<p style="text-align: right;">Page 95</p> <p>1 MR. O'NEILL: I'm just saying you're 2 misleading the – you're purposely contradicting the 3 record in this case. 4 MS. PRESCOTT: No, I'm not. 5 BY MS. PRESCOTT: 6 Q. Why was someone with Solomon's profile housed with 7 someone with my client's profile? 8 MR. O'NEILL: Objection, outside of the area 9 of this witness's expertise. 10 A. And my previous answer was I don't know how he was 11 classified. I don't have those facts. 12 BY MS. PRESCOTT: 13 Q. How, if you don't know how he was classified, and what 14 the facts were, and how this could possibly be, or 15 whether it makes sense, are you here to say that you 16 think that it was done in accordance with the law? 17 A. I think I'm going to say that I was not involved in his 18 classification and I don't know how they came to that 19 conclusion. And I think I already agreed to your crazy 20 example where they're so far apart that it would be 21 obvious. But I'm not prepared to say that it was 22 obvious with this Solomon. 23 Q. And you don't know who made any assessment or whether 24 they took the appropriate steps, do you? 25 A. Well, I know what the practice is. That those – if</p>	<p style="text-align: right;">Page 97</p> <p>1 And if they feel that a housing change is necessary, 2 classification gets involved and they make that change. 3 Q. But they can't remove someone on their own? 4 A. Absolutely they can, and they're required to. 5 Q. And they do it? 6 A. Of course they do. 7 MS. PRESCOTT: Do you want to take a break? 8 MR. O'NEILL: I don't need one. 9 MS. PRESCOTT: I just want maybe five 10 minutes. 11 MR. O'NEILL: Sure. 12 (Recess taken at 12:02 p.m.) 13 (Back on the record at 12:18 p.m.) 14 BY MS. PRESCOTT: 15 Q. Do you know Keith Williams at all, one of the 16 defendants in this case? He's not with the department 17 any longer. 18 A. I do not know that name. 19 Q. Do you know, even sitting here today, what rounds he 20 did with the Solomon and Burks ward on the night of the 21 rape? 22 A. Didn't we look at – 23 Q. We talked about the policy, yeah. We had a discussion 24 about rounds. 25 A. And my impression was they were done. But perhaps 610</p>

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<p style="text-align: right;">Page 98</p> <p>1 was inoperable, the card reader for 610. That's what I 2 recall. 3 Q. Okay. So, do you know – are you going to testify at 4 trial – do you know whether rounds were done that 5 night in ward 610? 6 A. I would have to review those records to answer that. 7 And I think you showed me some. But at this point, I 8 can't recall. So, what I can say is rounds were done. 9 And I think we had a discussion of how it would be 10 difficult to do a round without seeing into 610, is I 11 think what I said. 12 Q. But you don't have personal knowledge whether you were 13 a part of supervising the rounds? Or you know what the 14 records are. We all have the records. But you don't 15 have any personal knowledge? 16 A. No, I don't. 17 Q. And you don't have any knowledge of any discussion with 18 Williams and Mr. Burks on the day of the rape? 19 A. No. 20 Q. And do you have any prior knowledge of what Solomon was 21 like at the – you know, like in various periods of 22 being in the jail of his – what his institutional 23 regard was? 24 A. I do not. And I don't recall him as a prisoner in any 25 way.</p>	<p style="text-align: right;">Page 100</p> <p>1 is 60 minutes. And that officers are to do them 2 intermittently or so, and unpredictable patterns. And 3 it takes time to walk from one side of the jail to the 4 other. And depending on where you start is where you 5 finish. But the rule is that you do that within the 6 60-minute time frame but still staggering your exit and 7 entering times. 8 Q. Okay. Is that written somewhere? 9 A. Yes. It's in the rounds policy. 10 Q. So, you think the rounds policy said you can do more 11 than 60 minutes if you're staggering, what you just 12 described? 13 A. No. 14 Q. Do you know how many shifts Mr. Williams had worked? 15 How many doubles or – 16 A. No, I do not. 17 Q. Do you know if Burks asked him for help with Solomon? 18 He expressed fear of Solomon? 19 A. I do not know. 20 Q. When someone expresses fear of an inmate and says they 21 need help with them, the staff is supposed to 22 investigate that and take steps to deal with it, right? 23 A. Yes. 24 Q. Do you know whether Mr. Williams heard or saw anything 25 unusual that night?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Do you know whether Mr. Williams had any experience 2 with sexual assaultive inmates at the time of the rape 3 of Mr. Burks? 4 A. So, I'm not clear on experience, what you mean. 5 Q. Like had he been an officer who had managed sexual 6 assaultive inmates? And to what extent could you 7 testify to any of that? 8 A. I could not, no. 9 Q. Do you know what Mr. Williams particular duties were on 10 the night of the rape? 11 A. I don't. 12 Q. Do you know whether that night he was operating 13 according to standards and expectations for his 14 supervision of the prisoners? 15 A. My assumption would be yes. Do I know, no. 16 Q. Do you know of any reason why the rounds would not be 17 conducted every 30 minutes in protective custody that 18 night? 19 A. I do not have knowledge of that. 20 Q. Or why they weren't conducted every 60 minutes that 21 night? 22 A. I wouldn't have knowledge of that. 23 Q. Do you understand that every either 30 or 60 minutes 24 they were supposed to be conducted, right? 25 A. Well, my understanding of rounds is that the standard</p>	<p style="text-align: right;">Page 101</p> <p>1 A. I do not. 2 Q. Do you know whether he was derelict in any duty that 3 night? 4 A. I do not. 5 Q. With regard to Ms. Bell, do you know – again, we have 6 the records on the rounds. But do you have any 7 information personally about the rounds she did that 8 night? 9 A. I do not. 10 Q. Or discussions she had with Mr. Solomon? 11 A. I do not know. 12 Q. Do you know if she had any prior knowledge of 13 Mr. Solomon's history of institutional misconduct? 14 A. No. 15 Q. Do you know if Williams had that information in August 16 of 2016? 17 A. I don't know. 18 Q. Do you know whether Ms. Bell had prior experience 19 managing sexually assaultive inmates? 20 A. No. 21 Q. Do you know what her duties were – she was with 22 Williams that night. Do you have any information what 23 her different roles and duties were that night? 24 A. I don't know how they were scheduled. 25 Q. Do you know how many shifts she had worked that week?</p>

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<p style="text-align: right;">Page 102</p> <p>1 A. I do not.</p> <p>2 Q. Do you know whether Burks asked her for help with</p> <p>3 Mr. Solomon, or this person that was coming to be</p> <p>4 housed with him?</p> <p>5 A. I do not know.</p> <p>6 Q. Do you know whether she was derelict in any duty that</p> <p>7 night?</p> <p>8 A. No.</p> <p>9 Q. Do you know whether the cameras were working on ward</p> <p>10 610 on the night of the rape?</p> <p>11 A. I do not know.</p> <p>12 Q. Isn't it true that you and the other policy makers and</p> <p>13 management at the Wayne County jail didn't consider it</p> <p>14 something that was your responsibility or your job, to</p> <p>15 look into whether there were any failures by jail staff</p> <p>16 that could have contributed to sexual assaults from</p> <p>17 2003 to 2016?</p> <p>18 A. I do consider that within my job description and rely</p> <p>19 on internal affairs in large part to show me where</p> <p>20 violations are in investigations.</p> <p>21 Q. Is IA supposed to tell anyone else?</p> <p>22 A. It's a closed unit. They keep those investigations</p> <p>23 confidential. There is a supervisor, the captain who</p> <p>24 would communicate with the disciplinary deputy chief,</p> <p>25 who I communicate with. And that's the practice. They</p>	<p style="text-align: right;">Page 104</p> <p>1 that facility or otherwise?</p> <p>2 A. I didn't mean to suggest that that doesn't happen.</p> <p>3 Line of authority wise, I'm sure there are practices to</p> <p>4 share the reports because, right, it's the commander's</p> <p>5 jurisdiction.</p> <p>6 Q. But that wasn't happening according to Commander Cane;</p> <p>7 are you aware of that?</p> <p>8 A. She may not have gotten that report. When I was a</p> <p>9 commander, I would get those reports.</p> <p>10 Q. I'm not talking about in Burks and Solomon. She said</p> <p>11 she wasn't getting back, from internal affairs, their</p> <p>12 findings on the different examinations or</p> <p>13 investigations internal affairs was doing.</p> <p>14 A. She would have to ask for that. I don't think that</p> <p>15 they would generally distribute their investigation.</p> <p>16 It would go to the deputy chief over IA and then</p> <p>17 whoever else.</p> <p>18 Q. So, suffice it to say, you weren't aware of Cane's</p> <p>19 practice in this regard?</p> <p>20 A. I was not.</p> <p>21 Q. How is she going to be adequately assessing the</p> <p>22 security apparatus and the operational apparatus with</p> <p>23 this lens of oh, sexual assault or sexual harassment is</p> <p>24 happening here, is what we're finding, if she's not</p> <p>25 getting the report back?</p>
<p style="text-align: right;">Page 103</p> <p>1 let us know if there's a violation that comes up with</p> <p>2 an investigation, like failure to do rounds.</p> <p>3 Q. Are there policies that tell IA what they're supposed</p> <p>4 to investigate? Specifically that they are supposed to</p> <p>5 be looking at whether staff may have contributed to an</p> <p>6 unsafe sexual assault situation, or the institutional</p> <p>7 failure, like we have a blind spot over here? Is there</p> <p>8 some policy that says IA should be specifically looking</p> <p>9 for those things?</p> <p>10 A. I can't think of a policy. But I know that they</p> <p>11 believe their duty is to report on what they find. And</p> <p>12 in my experience, they're looking for rule violations</p> <p>13 that I would interpret, under a PREA lens, as something</p> <p>14 that perhaps could be done differently. They wouldn't</p> <p>15 be necessarily looking to the PREA lens, but they would</p> <p>16 be looking for factual deficiencies.</p> <p>17 Q. Was it anybody else's job to look at the IA</p> <p>18 investigations under that particular lens that okay,</p> <p>19 whether or not it's a rule violation, it's a risk and</p> <p>20 we need to be managing this risk because of PREA?</p> <p>21 A. No. I think the commander could be involved. But</p> <p>22 internal affairs has their own line of authority.</p> <p>23 Q. And you don't see that as problematic, that IA doesn't</p> <p>24 circle back with the command staff and say look, this</p> <p>25 is what we found, whether it's exonerating the staff in</p>	<p style="text-align: right;">Page 105</p> <p>1 A. And I think that she should. My only other comment</p> <p>2 would be that perhaps she was unaware – I mean, we</p> <p>3 were all thinking there was no deficiencies. But you</p> <p>4 would have to ask her that. I don't know.</p> <p>5 Q. But you can understand – you seem perfectly capable of</p> <p>6 understanding that you might have very little record of</p> <p>7 sexual assaults or substantiated cases for two reasons.</p> <p>8 It could be because they're not happening. It could be</p> <p>9 because they're not being detected or followed up on,</p> <p>10 right?</p> <p>11 A. Yes. And PREA says expect an increase in reportings as</p> <p>12 we get close to full compliance.</p> <p>13 Q. Right. But at the policy-maker level, at the level of</p> <p>14 the management and the people who could make changes at</p> <p>15 the jail, isn't it correct that there's no</p> <p>16 consideration of whether there might be failures by</p> <p>17 jail staff that contributed or led to sexual assaults</p> <p>18 that just wasn't happening prior to August of 2016, was</p> <p>19 it?</p> <p>20 A. Well, I think it was happening through the disciplinary</p> <p>21 system. That's where all the oversight would start.</p> <p>22 We would look at what came back from an investigation</p> <p>23 and say look at this. I mean, we terminated people for</p> <p>24 results in our internal affairs investigations. That's</p> <p>25 where our information comes from.</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q. So, I know we just did this exercise, logical exercise</p> <p>2 a moment ago, but the fact that people are getting</p> <p>3 disciplined may be an indication that that's how many</p> <p>4 disciplines were necessary, or it may be a reflection</p> <p>5 of how many disciplines were caught and followed up</p> <p>6 with, right?</p> <p>7 A. Yes.</p> <p>8 Q. Like we can't go back to 2016 and disaggregate that,</p> <p>9 can we?</p> <p>10 A. No.</p> <p>11 Q. And disaggregate this is what our number showed on the</p> <p>12 number of assaults and harassments and everything, was</p> <p>13 that really the number is just the number that was</p> <p>14 memorialized, right?</p> <p>15 A. Yes.</p> <p>16 Q. And that's why I just go back to I know you haven't</p> <p>17 heard the tapes, but when you get the tapes years</p> <p>18 later, and you find out that not one question is asked</p> <p>19 about well wasn't there anyone doing rounds. Did you</p> <p>20 see any officers in the area. You know, did you call</p> <p>21 out for the officers. Have you told the officers you</p> <p>22 were afraid of him. I mean, there seems like a really</p> <p>23 big gap there, doesn't it?</p> <p>24 A. Yeah. I would have preferred those things were done.</p> <p>25 Normally they're done.</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. And trust me when I say I can barely remember like</p> <p>2 before Covid. It's all very foggy. So, I guess that</p> <p>3 I'm asking you things that go way back. Do you recall</p> <p>4 any – I imagine, and I don't need to know about staff</p> <p>5 that have been engaged with sexual misconduct with</p> <p>6 prisoners, so fraternization type disciplines. Putting</p> <p>7 those aside, do you recall any discipline of staff</p> <p>8 where there's been a finding of, you know, your lack of</p> <p>9 supervision contributed to this sexually unsafe</p> <p>10 situation for a prisoner?</p> <p>11 A. And I think, again, that sort of conclusion would come</p> <p>12 from reviewing an event. And it would be noted that</p> <p>13 something wasn't done, like rounds. And then we would</p> <p>14 bring that person in and figure out why that happened,</p> <p>15 or if it happened. And certainly discipline could be</p> <p>16 an offering for that.</p> <p>17 I'm trying to think back over all discipline.</p> <p>18 You know, often that's similar to suicide. That's</p> <p>19 reviewed. And we find that there is a deficiency, and</p> <p>20 we correct that. And it's similar here.</p> <p>21 I'm trying to think of a specific case, you</p> <p>22 know, that we've terminated folks who, you know, maybe</p> <p>23 had concensual relationships with prisoners. But I</p> <p>24 can't recall specific cases.</p> <p>25 Q. So my question had been you can't think of a case</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Can I ask it this way: I mean, the investigators are</p> <p>2 supposed to be very highly trained, right, to do this</p> <p>3 work, right?</p> <p>4 A. Yes.</p> <p>5 Q. Right. You're not expecting and relying on Joe Blow,</p> <p>6 who is in the jail from the street, to know what is</p> <p>7 relevant and important to run your jail and what</p> <p>8 questions should be asked, do you?</p> <p>9 A. No.</p> <p>10 Q. Did you have a staff in your PREA role in 2016 at all?</p> <p>11 A. No.</p> <p>12 Q. Do you recall what's the first thing you ever heard</p> <p>13 about the Burks and Solomon matter? Can you roll back</p> <p>14 in your memory and say like the first thing I remember</p> <p>15 is this?</p> <p>16 A. It's difficult to recall 2016. You know, I can – you</p> <p>17 know, I can recall I talked to the captain of internal</p> <p>18 affairs frequently with different hats, with discipline</p> <p>19 and with PREA, and I'm sure that came up at some point.</p> <p>20 I don't know what we said about it. I'm sure it was in</p> <p>21 a log that we get every day for report, summaries and</p> <p>22 that. I would be alerted. And then I would sometimes</p> <p>23 – sometimes I would call the commander and say yes</p> <p>24 we've already called IA. That would probably be what I</p> <p>25 would half recall, I guess.</p>	<p style="text-align: right;">Page 109</p> <p>1 relative to punishment, or discipline I should say, of</p> <p>2 a staff member relative to an element of, you know, you</p> <p>3 weren't supervising adequately?</p> <p>4 A. Other than them participating.</p> <p>5 Q. Do you know of anything in your awareness or that you</p> <p>6 plan to testify to that happened with respect to</p> <p>7 Mr. Burks or happened with respect to Mr. Solomon</p> <p>8 because it was unique to them individually as opposed</p> <p>9 to this is the way we do things, this is the policy,</p> <p>10 this is the practice we do?</p> <p>11 A. No.</p> <p>12 Q. How about – I mean, in other words, if they had been</p> <p>13 any other prisoners, is it your understanding and</p> <p>14 belief that anything that did or didn't happen would</p> <p>15 have been the same in terms of the way the staff</p> <p>16 reacted to them, the policies?</p> <p>17 A. It sounds like you're asking was there a deviancy based</p> <p>18 on who they are. And I don't have any knowledge of</p> <p>19 that.</p> <p>20 Q. Earlier when you testified – I asked you about when</p> <p>21 the 2016 pamphlet was issued, and you didn't know the</p> <p>22 date. Do you know it today?</p> <p>23 A. Let's see.</p> <p>24 Q. Are you looking at Exhibit 3?</p> <p>25 A. Is that what we called this?</p>



Chief James Davis

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<p style="text-align: right;">Page 110</p> <p>1 MR. O'NEILL: Yes.</p> <p>2 A. So, Exhibit 3, there is a memorandum from June 7, 2016.</p> <p>3 BY MS. PRESCOTT:</p> <p>4 Q. What does it say?</p> <p>5 A. That says that I have made a thousand pamphlets ready</p> <p>6 for you today. And of course here's the template from</p> <p>7 the PREA resource center.</p> <p>8 Q. So, if Mr. Burks was already in – so, these were to go</p> <p>9 in when people were done with intake, right, screening?</p> <p>10 A. Yes.</p> <p>11 Q. So, if Mr. Burks was already in prison, or jail –</p> <p>12 excuse me – was there any order that said go give this</p> <p>13 to everybody that was already here?</p> <p>14 A. No, there was not.</p> <p>15 Q. Do you think that he wouldn't have gotten the pamphlet?</p> <p>16 A. I don't know. Because if he went back for a re-housing</p> <p>17 assignment, it could have been given to him. And I</p> <p>18 incorporate these rules into the inmate handbook. And</p> <p>19 so, he would have had a handbook which would have</p> <p>20 mimicked sexual safety information.</p> <p>21 Q. Do you know when the updated handbook went out?</p> <p>22 A. I do not have that.</p> <p>23 Q. Do you know when the 2016 new signage went up in the</p> <p>24 old division?</p> <p>25 A. I think there is a – in that May 27 memorandum,</p>	<p style="text-align: right;">Page 112</p> <p>1 commander, they have over the staff.</p> <p>2 Q. And you also – and part and parcel of that is you're</p> <p>3 not working in the jail's facility, right?</p> <p>4 A. I'm not.</p> <p>5 Q. You're not seeing the day-to-day? I mean, you might</p> <p>6 pass through, there might be a meeting, but you're not</p> <p>7 there boots on the ground?</p> <p>8 A. No.</p> <p>9 Q. And that was true in 2016?</p> <p>10 A. Yes.</p> <p>11 Q. How long had it been since you had been on a routine</p> <p>12 basis, if not daily, then frequently during the week,</p> <p>13 in the jail divisions? How long had it been?</p> <p>14 A. Well, the last time I had a post in a jail was 2013.</p> <p>15 And then I retired.</p> <p>16 Q. So, your last post was something that was operationally</p> <p>17 in the jail?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever examine what other jails or prisons,</p> <p>20 federal, state, local facilities did in 2016 to manage</p> <p>21 dangerous and difficult inmates where they would be</p> <p>22 managed and held?</p> <p>23 A. Yes. And I did that with Chuck Pappas. He had a</p> <p>24 contact at the Michigan Department of Corrections and</p> <p>25 he sent us his PREA rule book to help us build the</p>
<p style="text-align: right;">Page 111</p> <p>1 there's a reference to expected behavior. The inmate</p> <p>2 handbook is very clear. But that's not signage. I'm</p> <p>3 saying the handbook is clear on behavior. I'm assuming</p> <p>4 it was there in May, but maybe not. I thought I had a</p> <p>5 signage one. Even if we do find it, I don't see a</p> <p>6 date.</p> <p>7 Q. Well, the exhibit is marked and it's part of the</p> <p>8 record. So, if it's there, it's there. Suffice it to</p> <p>9 say, you don't have any information of your memory?</p> <p>10 A. Of the date that they were on?</p> <p>11 Q. Right.</p> <p>12 A. No, I don't.</p> <p>13 Q. You testified at your prior deposition that you did not</p> <p>14 have superintendent operational authority. What does</p> <p>15 that mean?</p> <p>16 A. That means I believe in my role as the director that I</p> <p>17 do not have the ability to order command officers to do</p> <p>18 that.</p> <p>19 Q. Okay. So, could it be a little bit like sort of like</p> <p>20 being in the chain of command in terms of operations,</p> <p>21 what you shall and shall not do? I'm just trying to</p> <p>22 understand genuinely.</p> <p>23 A. I'm trying to think that through. As a director, I</p> <p>24 don't have that line of command authority that I think</p> <p>25 you just mentioned. That a sergeant, lieutenant,</p>	<p style="text-align: right;">Page 113</p> <p>1 policy.</p> <p>2 Q. Okay. So, what's going on with Chuck at this time? Is</p> <p>3 he on his way out and he's handing off to you? Or</p> <p>4 you're working together?</p> <p>5 A. We're in such close quarters. We see each other, not</p> <p>6 on a daily basis or anything, but it seems like that</p> <p>7 too would have been in that handover process. And he</p> <p>8 gave me that resource to finish that policy.</p> <p>9 Q. Okay. So, he gave you MDOC's policy?</p> <p>10 A. Yes.</p> <p>11 Q. And do you remember seeing an MDOC policy, specific</p> <p>12 provisions that there shall be a determination of a</p> <p>13 potential victim and who is potentially an aggressor?</p> <p>14 Do you recall seeing that?</p> <p>15 A. I do not.</p> <p>16 Q. Do you recall seeing that MDOC rules and regulations,</p> <p>17 similar to PREA, say that you can't house those two,</p> <p>18 not only in the same cell, but even in the same pod?</p> <p>19 A. Yes.</p> <p>20 Q. And you understand that to be what PREA said had</p> <p>21 happened?</p> <p>22 A. Yes.</p> <p>23 Q. As of 2012?</p> <p>24 A. You know what, I don't have a memory of talking about</p> <p>25 that in 2012.</p>

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<p style="text-align: right;">Page 114</p> <p>1 Q. Okay. But do you know, sitting here today, that that</p> <p>2 is one of the – that is something that was dictated by</p> <p>3 the PREA standards that came out in 2012?</p> <p>4 A. Yes.</p> <p>5 Q. And I'm going to hand you what I'm going to mark as</p> <p>6 Exhibit 4. It's the assessment sheet for all its</p> <p>7 prisoners.</p> <p>8 MS. PRESCOTT: You can look at it, Paul. I</p> <p>9 only have that one copy.</p> <p>10 MARKED FOR IDENTIFICATION:</p> <p>11 DEPOSITION EXHIBIT 4</p> <p>12 12:55 p.m.</p> <p>13 BY MS. PRESCOTT:</p> <p>14 Q. So, my only question is whether this is something that</p> <p>15 you know, as you looked at PREA enforcement, like you</p> <p>16 just testified you got the policy from MDOC, did you</p> <p>17 get their little handy-dandy here is how to screen for</p> <p>18 PREA risk in Exhibit 4?</p> <p>19 A. No, I don't specifically recall this form.</p> <p>20 Q. Have you ever seen any score sheet like that that is</p> <p>21 specifically designed to get a factor of sexual</p> <p>22 victimization or sexual aggressor from any facility</p> <p>23 anywhere?</p> <p>24 A. So, I see that this form is more than just a PREA form.</p> <p>25 It's all different characteristics. So, it would be –</p>	<p style="text-align: right;">Page 116</p> <p>1 not called PREA tools. But we – everyone screens for</p> <p>2 those things. I haven't seen one that is labeled</p> <p>3 Prison Rape Elimination Act screening.</p> <p>4 Q. When you say we, that makes me think that Wayne County</p> <p>5 asks those questions. Do you recall testifying in the</p> <p>6 last deposition that you do not know what the screening</p> <p>7 tool is in Wayne County? You have not seen it?</p> <p>8 A. I'm aware that it asks similar questions.</p> <p>9 Q. You think Burks and Solomon were asked questions</p> <p>10 similar to what's on Exhibit 4?</p> <p>11 A. Regarding predation and victimization, I would think</p> <p>12 they were. Do I know that, no, I don't.</p> <p>13 Q. And so, wouldn't that be kind of important to know, you</p> <p>14 know, given that your PREA lens covers so many</p> <p>15 different – I mean, it covers everywhere in the</p> <p>16 facility and every part of the operation. But wouldn't</p> <p>17 it be important to know whether the screening tools</p> <p>18 were actually using the kinds of questions that would</p> <p>19 get at like what's seen in Exhibit 4?</p> <p>20 A. Yes.</p> <p>21 MARKED FOR IDENTIFICATION:</p> <p>22 DEPOSITION EXHIBIT 5</p> <p>23 12:57 p.m.</p> <p>24 BY MS. PRESCOTT:</p> <p>25 Q. Exhibit 5 is called PREA risk assessment final scoring.</p>
<p style="text-align: right;">Page 115</p> <p>1 it would function in more than one way. This is</p> <p>2 certainly augmenting a risk assessment to include</p> <p>3 sexual aggression.</p> <p>4 Q. So, are you aware that MDOC has a whole other screening</p> <p>5 class level? You could have one. You could be a four,</p> <p>6 and that means you are going to go to maximum security</p> <p>7 facilities.</p> <p>8 A. I don't know that sheet.</p> <p>9 Q. So, let's go back to my question about Exhibit 4. Have</p> <p>10 you seen a screening tool like what Exhibit 4 has used?</p> <p>11 Prison Rape Elimination Act risk assessment, have you</p> <p>12 seen that kind of a format? The wording might change</p> <p>13 here or there from either the PREA resource center on</p> <p>14 line or other facilities in the United States.</p> <p>15 A. In 2016?</p> <p>16 Q. Have you ever seen one sitting here today, all the way</p> <p>17 until today?</p> <p>18 A. Well, we talked about that with someone from New York</p> <p>19 this week.</p> <p>20 Q. Okay. How about ever before this week?</p> <p>21 A. No.</p> <p>22 Q. Do you know whether other counties in the area were</p> <p>23 using screening tools like as in Exhibit 4?</p> <p>24 A. We all have screening tools and we all ask questions</p> <p>25 that related to victimization and predation. They're</p>	<p style="text-align: right;">Page 117</p> <p>1 I only have that one copy. So, this is an MDOC</p> <p>2 document too. I'll just ask a couple questions. Let</p> <p>3 me know when you've had a chance to check it out.</p> <p>4 A. Okay.</p> <p>5 Q. So, this is the MDOC's scoring guide that goes along –</p> <p>6 so, 5 is the guide that scores when you have answers on</p> <p>7 4. And, you know, if you have a yes to certain</p> <p>8 questions, you get a really high score. For example,</p> <p>9 victim of a substantiated prisoner-on-prisoner</p> <p>10 non-consensual sexual act, you're going to get a really</p> <p>11 high score of the likely victim. You get 60 points for</p> <p>12 that. If you're an aggressor of a substantiated</p> <p>13 prisoner-on-prisoner non-consensual sexual act, you get</p> <p>14 a really high score the other way. And there's one in</p> <p>15 between, like any history of perpetrated sexual</p> <p>16 victimization by threat or force, any history of</p> <p>17 perpetrated physical abuse, gang affiliation, et</p> <p>18 cetera, history of consensual sex in a facility. Have</p> <p>19 you ever seen Exhibit 5 or, you know, in other words,</p> <p>20 the score sheet that MDOC was using in 2016?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Have you ever seen any kind of a score sheet that gives</p> <p>23 differentiated scores based on the questions that are</p> <p>24 asked anywhere at any time right up until today?</p> <p>25 A. Once again, every assessment tool is going to ask these</p>



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<p style="text-align: right;">Page 118</p> <p>1 things in different ways. And we're going to see if</p> <p>2 there's an aggressor, number one here, based on</p> <p>3 criminal history and try to gather that same</p> <p>4 information.</p> <p>5 Q. So, my question is whether you have seen score sheets</p> <p>6 that differentiate, based on what you identified</p> <p>7 someone said, this is how much of a weight should be</p> <p>8 given based on these scores? Have you ever seen that</p> <p>9 undertaken, given a score sheet, at any time in any</p> <p>10 facility?</p> <p>11 A. Not that I can recall.</p> <p>12 Q. And are you aware that in the Wayne County jail in</p> <p>13 2016, you cannot score higher or lower because of</p> <p>14 anything to do with a sexual crime? You know, so you</p> <p>15 either have an assaultive felony or you don't. There</p> <p>16 is nothing that honed in on sexual victimization; are</p> <p>17 you aware of that?</p> <p>18 A. I am not specifically aware of the instrument they used</p> <p>19 in 2016.</p> <p>20 Q. Fair enough. Don't you think that would be important</p> <p>21 to differentiate, okay, there is a lot of aggressive</p> <p>22 people or violent people that are in the jail that have</p> <p>23 never been sexually aggressive? Wouldn't it be</p> <p>24 important to have a tool to sort that out?</p> <p>25 A. It would be important to know that information. You</p>	<p style="text-align: right;">Page 120</p> <p>1 A. I think we were concentrating on writing our policy and</p> <p>2 I think we were comparing policy to policy, not jail</p> <p>3 operation. So, I don't think we were at that level.</p> <p>4 Q. So, if you were comparing policy to policy, why not</p> <p>5 institute, like MDOC, a clear role that says you shall</p> <p>6 with a potential aggressor, with a potential victim.</p> <p>7 A. I think that's what we are already trying to do.</p> <p>8 Q. Well, how is that possible when Mr. Ramel testified</p> <p>9 there isn't even a categorization of potential</p> <p>10 aggressors and potential victims?</p> <p>11 A. More an emphasis on history you're saying that.</p> <p>12 Q. The history of 2013, '14, '15, '16 is what I'm focused</p> <p>13 on.</p> <p>14 A. I'm sorry. I lost the question.</p> <p>15 Q. Fair enough. So, Mr. Ramel has said we don't identify.</p> <p>16 We don't have a flag. We don't have a categorization.</p> <p>17 So, how can you be managing according to category that</p> <p>18 isn't even traced and tracked?</p> <p>19 A. Well, 14-17 says you take into account predation. And</p> <p>20 it said it in 2009 and it said it in 2016. And those</p> <p>21 were always considerations. Now, it might not look</p> <p>22 like that, but that has always been in the policy.</p> <p>23 MARKED FOR IDENTIFICATION:</p> <p>24 DEPOSITION EXHIBIT 6</p> <p>25 1:06 p.m.</p>
<p style="text-align: right;">Page 119</p> <p>1 know, how you gather it is probably different ways.</p> <p>2 Q. Wouldn't it be important though to translate it into a</p> <p>3 score so you could assess specifically the risk of</p> <p>4 sexually victimizing somebody else as opposed to the</p> <p>5 risk that you're just scary and violent in general?</p> <p>6 A. I think that would be helpful, yes.</p> <p>7 Q. Why wasn't it ever instituted all the way up until</p> <p>8 today?</p> <p>9 A. You know, my thought is that we have a system and we</p> <p>10 use that system and we're aware of sexual predation and</p> <p>11 victimization. And we do try to protect inmates in</p> <p>12 that way with the tool that we use. It may not look</p> <p>13 like that. So, you know, is that something that we'll</p> <p>14 look at when we move to the new system in a year, yes.</p> <p>15 Q. But you don't have an answer as to why not, in 2014 or</p> <p>16 '15 or '13, after PREA came out and said to do this?</p> <p>17 A. My thought is that we said we do screen and we do</p> <p>18 screen for those attributes, but it doesn't look like</p> <p>19 that.</p> <p>20 Q. And you've told me everything you know about the</p> <p>21 screening process, right?</p> <p>22 A. As far as I can determine, yes.</p> <p>23 Q. When Mr. Pappas and you got the policy, did you ask</p> <p>24 what they use for screening tools? I know you said you</p> <p>25 haven't seen them. Did you ask for those?</p>	<p style="text-align: right;">Page 121</p> <p>1 BY MS. PRESCOTT:</p> <p>2 Q. Exhibit 6 goes along with 4 and 5. So, it's Prison</p> <p>3 Rape Elimination Act (PREA) risk assessments manual</p> <p>4 from MDOC. And it's got a date, I think, August 12,</p> <p>5 2015. Take a look at it. I mean, you can take as long</p> <p>6 as you want. My question is whether you, first, have</p> <p>7 seen this document before?</p> <p>8 A. I don't think I've seen this.</p> <p>9 Q. Do you know of anyone, yourself, or anyone from the</p> <p>10 Wayne County sheriff's office, asking MDOC will you</p> <p>11 give us your manual for how you do your sexual assaults</p> <p>12 or your PREA screening?</p> <p>13 A. Not to my knowledge. We were asking for the general</p> <p>14 policy examples that would be put out in '16. And this</p> <p>15 looks like their prison management system that's unique</p> <p>16 to them.</p> <p>17 Q. To this day, is there any manual that tells anyone in</p> <p>18 classifications here is the PREA requirements for how</p> <p>19 to do classification screening?</p> <p>20 A. Other than our policies, I'm not aware of one.</p> <p>21 Q. Was protective custody a place that had additional</p> <p>22 layers of oversight or procedures for additional</p> <p>23 oversight of the inmates?</p> <p>24 A. Protective custody to me is a broad term. So, there's</p> <p>25 different types of housing. If you're referring to</p>

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<p style="text-align: right;">Page 122</p> <p>1 610's own protection specifically –</p> <p>2 Q. Let's focus on 610, yes. That ward, did it have</p> <p>3 special rules for additional oversight or protection?</p> <p>4 A. As far as I understand, there is a classification</p> <p>5 option for folks who cannot or they do not want to be</p> <p>6 in general population. It could be for a high profile.</p> <p>7 It could be for someone who just doesn't do well with a</p> <p>8 large group of people. It's not like a mental health</p> <p>9 ward that requires direct observation or 30-minute</p> <p>10 rounds, that I'm aware of.</p> <p>11 Q. So, remember we reviewed the policy and how the policy</p> <p>12 talked about continuous rounds of individuals two and</p> <p>13 higher; you're not aware of that?</p> <p>14 A. Say that again.</p> <p>15 Q. Do you recall that policy in 2016 actually provided</p> <p>16 that there would be continuous rounds for individuals</p> <p>17 not in medical, but continuous rounds relative to</p> <p>18 individuals that were at a classification of two or</p> <p>19 higher?</p> <p>20 A. So, I'm aware that there is a policy for one of the</p> <p>21 divisions that was written with the words continuous</p> <p>22 rounds. But I think I said last time in January, and I</p> <p>23 think I said earlier today, that the idea that it takes</p> <p>24 an hour to do a round, you're continuously on a round.</p> <p>25 Continuous rounds, it means different things, I think,</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Well, cameras aren't – those were a prophylactic sort</p> <p>2 of thing that we did additionally in that building to</p> <p>3 try to increase coverage. So, it wasn't tied to a type</p> <p>4 of inmate. It was a building sort of installation.</p> <p>5 Q. Is protective custody just another housing unit? Is it</p> <p>6 treated as just another housing unit?</p> <p>7 A. And then again it would be – do you mean special</p> <p>8 custody?</p> <p>9 Q. I'm talking about ward 610, that level of whatever. I</p> <p>10 know there's other kinds of special arrangements. But</p> <p>11 ward 610, regular protective custody, isn't it the case</p> <p>12 that protective custody is just a different name for</p> <p>13 the same thing? It's just another housing unit?</p> <p>14 A. You might think that, but the reason it's not is</p> <p>15 because it limits the amount of people. It's a small</p> <p>16 ward. There's only three, four cells. It reduces the</p> <p>17 amount of people that you're around.</p> <p>18 Q. It reduces the number of people and increases the</p> <p>19 exposure to any one of them, right?</p> <p>20 A. I don't know that I agree with that.</p> <p>21 Q. Okay. I think we'll just move on from there.</p> <p>22 Are you aware of anything else that</p> <p>23 differentiates ward 610, that level of protective</p> <p>24 custody, from general population, other than there's</p> <p>25 fewer people?</p>
<p style="text-align: right;">Page 123</p> <p>1 to different people. And so, if the question is am I</p> <p>2 aware of it, yes.</p> <p>3 Q. But you think it means that you can sit at the desk for</p> <p>4 45 minutes of the hour and not be on your feet moving</p> <p>5 between people?</p> <p>6 A. It doesn't mean that. Because you have two people that</p> <p>7 work there. So, someone is walking and someone is at</p> <p>8 the desk to provide you security there.</p> <p>9 Q. Okay. And is that your understanding of how things</p> <p>10 worked on 610 in the week up to and including the rape?</p> <p>11 A. I don't know the answer to that because I wasn't, you</p> <p>12 know, administering that facility.</p> <p>13 Q. Fair enough. Okay. So, would you agree that there's</p> <p>14 no more rounds in protective custody than not</p> <p>15 protective custody, more frequently or –</p> <p>16 A. I think the answer could be yes, depending on who's in</p> <p>17 there and what's in there, what the intention was. If</p> <p>18 it's just because I'm not comfortable around people,</p> <p>19 then perhaps the standard doesn't change. It goes back</p> <p>20 to what does unprotected mean. What does special</p> <p>21 housing mean. You know, what do those mean.</p> <p>22 Q. Okay. So, it could be, but it's not baked into the</p> <p>23 cake or inherent that in protective custody we have</p> <p>24 more rounds or more oversight or more cameras and so</p> <p>25 on?</p>	<p style="text-align: right;">Page 125</p> <p>1 A. Well, there are other things that we would do depending</p> <p>2 on who we house there. So, if it was someone who</p> <p>3 wanted to shower independently, then they would be</p> <p>4 pulled one at a time to shower. So, there are other</p> <p>5 things that could happen in that ward.</p> <p>6 Q. Can straight people go to alternative lifestyle? Can</p> <p>7 they go to the alternative lifestyles area because they</p> <p>8 don't want to be around people who might be sexual</p> <p>9 offenders?</p> <p>10 A. My opinion is in general, no. But, again, people would</p> <p>11 call that a special – they might call that a special</p> <p>12 custody ward. Because as you're screening people and</p> <p>13 someone says look, I'm a transgender person, and you</p> <p>14 talk to that person, and you send them to medical and</p> <p>15 they say I consider myself male or female. How do you</p> <p>16 identify. Where would you feel comfortable. So, it</p> <p>17 all happens at the intake.</p> <p>18 Q. Yeah. I'm saying can someone say yeah I'm straight and</p> <p>19 I'm not trans, but I don't want to be around people</p> <p>20 that are potentially sex offenders? Can you opt into</p> <p>21 the alternative in the hopes that that might be a</p> <p>22 better place?</p> <p>23 A. Again, it would be a totality of what's presented to</p> <p>24 you. I want to go somewhere is never a reason that we</p> <p>25 send you. You might feel safe there, but we might say</p>

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<p style="text-align: right;">Page 126</p> <p>1 you might feel safe there, but we're not confident that</p> <p>2 the other people are safe with you there.</p> <p>3 Q. Right.</p> <p>4 A. So, we might not make that decision.</p> <p>5 Q. Okay. And it's certainly not just an option where you</p> <p>6 can select oh, I'm in jail, I want to get my menu out</p> <p>7 and I would like to check that I'm in the alternative</p> <p>8 life? It's not the prisoner's option?</p> <p>9 A. It could start with the prisoner requesting. But then</p> <p>10 we have to do some research and discussion and</p> <p>11 determine what the needs really are based on our</p> <p>12 expertise as keeping people safe and what they are</p> <p>13 requesting. We don't dismiss it.</p> <p>14 Q. I got it. It's just that it's not – in and of itself,</p> <p>15 it's not enough?</p> <p>16 A. Un-un.</p> <p>17 Q. That's a no?</p> <p>18 A. No, it's not in and of itself.</p> <p>19 Q. I see you wrote a memo about trans inmates and this</p> <p>20 alternative lifestyle area. Did you understand that to</p> <p>21 be something that was just dictated by federal law,</p> <p>22 that you needed to provide a safe area for people who</p> <p>23 do qualify?</p> <p>24 A. No. I understand that we have to provide options for</p> <p>25 people as they present themselves. A transgender</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. And that wasn't what everyone had been doing, including</p> <p>2 Wayne County hadn't been doing, before PREA, right?</p> <p>3 A. Well, we would always identify transgender people and</p> <p>4 determine safe housing for them, or people at risk for</p> <p>5 sexual aggression, based on the size or any number of</p> <p>6 factors. I mean, we always did that. So, I didn't</p> <p>7 think we weren't doing that.</p> <p>8 Q. Is it your testimony that MDOC was screening for the</p> <p>9 PREA risk factors before PREA even happened?</p> <p>10 A. I don't have an understanding of their screening.</p> <p>11 Q. I apologize. I know you said that. Okay. So, what is</p> <p>12 the function and role of any sort of sexual assault</p> <p>13 review, whether it's a sexual assault review team or</p> <p>14 whatever the verbiage might have been at Wayne County?</p> <p>15 What's its purpose?</p> <p>16 A. In my opinion, the purpose is, and always was, to look</p> <p>17 at anything unusual that could be changed to improve</p> <p>18 safety in any sort of action, even if it's a suicide,</p> <p>19 even if it's an assault and battery, those type of</p> <p>20 reviews. You know, that's part of command's</p> <p>21 responsibility, is to make sure we're doing the best we</p> <p>22 can and look at those incidents to determine is there</p> <p>23 anything out of the ordinary. How can we change</p> <p>24 anything. And the things I responded to, it's clear</p> <p>25 why I looked into those.</p>
<p style="text-align: right;">Page 127</p> <p>1 person might not be comfortable on a special housing.</p> <p>2 They say I identify as male, and that's how I would</p> <p>3 like to be housed. Well, we'll look for options in</p> <p>4 that regard.</p> <p>5 Q. So, it is required that there be segregation of people</p> <p>6 who are potentially transgender so that they're not</p> <p>7 held with the gender they don't identify with?</p> <p>8 A. Yes. We have to look out for everyone's interest as</p> <p>9 they enter.</p> <p>10 Q. Certainly the department understood, in 2016, someone</p> <p>11 can be at risk of being sexually violated if they are</p> <p>12 straight and they do not ask for an alternative</p> <p>13 lifestyle?</p> <p>14 A. Correct.</p> <p>15 Q. Were you aware, in 2016, that MDOC had been separating</p> <p>16 potential victims and aggressors for years by then when</p> <p>17 you sit down with Mr. Pappas and go through the policy?</p> <p>18 A. I think our awareness is that we were always looking</p> <p>19 out for aggressors and victimization in our intake,</p> <p>20 including sexual aggression victimization.</p> <p>21 Q. Okay. Do you understand that MDOC had instituted</p> <p>22 policies specifically rating people on the – you</p> <p>23 understood PREA brought in specific factors you were</p> <p>24 required to assess, right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Okay. And certainly by 2015, or early 2016, I think</p> <p>2 you've already testified the department understood that</p> <p>3 that kind of review was necessary to protect against</p> <p>4 reasonably obvious risks to people that they might be</p> <p>5 sexually assaulted, right?</p> <p>6 A. Right.</p> <p>7 Q. And part of what they're reviewing is investigations,</p> <p>8 right? You get a complaint, you got to investigate it,</p> <p>9 and then you got to like sort of post mortem the whole</p> <p>10 situation, right?</p> <p>11 A. Right.</p> <p>12 Q. And investigations had to be full and fair and complete</p> <p>13 and thorough in order for the sexual assault review</p> <p>14 team to do anything with them, right? That's what they</p> <p>15 should be at least?</p> <p>16 A. Yes.</p> <p>17 Q. Do you think that the investigators were required to</p> <p>18 look not just at what happened but why it happened?</p> <p>19 A. I think that's part of a good investigation.</p> <p>20 Q. So, did you write a set of disclosures for this case?</p> <p>21 A. I'm not sure.</p> <p>22 Q. I'll hand you what was sent to me as defendant's</p> <p>23 disclosure pursuant to rules of federal procedure. So,</p> <p>24 I don't know if we need to mark it, but I guess take a</p> <p>25 minute to look through it and tell me if you've seen</p>

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<p style="text-align: right;">Page 130</p> <p>1 that document before.</p> <p>2 A. Is this something new or something old?</p> <p>3 Q. Is this something that you prepared, that you've seen</p> <p>4 before?</p> <p>5 A. I guess, I'm not sure what date it's from.</p> <p>6 Q. It got to me on September 7th. And it's signed by</p> <p>7 Mr. O'Neill.</p> <p>8 A. I know I looked at something similar to this before</p> <p>9 today, just a couple days ago, right.</p> <p>10 Q. Okay. So, you've seen it. Do you know if you saw it</p> <p>11 before September 7th?</p> <p>12 A. I don't know.</p> <p>13 MR. O'NEILL: Can we take a break when we get</p> <p>14 to a good breaking point.</p> <p>15 MS. PRESCOTT: Just let me ask a few more</p> <p>16 questions.</p> <p>17 BY MS. PRESCOTT:</p> <p>18 Q. This isn't a list that you wrote out?</p> <p>19 A. No.</p> <p>20 Q. Here in B it says that this is a summary of facts and</p> <p>21 opinions Director Davis is expected to testify about.</p> <p>22 And then there's a set of factors. A, from the prior</p> <p>23 page, says Director Davis is expected to present</p> <p>24 evidence under these rules regarding the fact that</p> <p>25 Wayne County jail took measures to address the risk of</p>	<p style="text-align: right;">Page 132</p> <p>1 Things that you witnessed, things that you observed, or</p> <p>2 things that, you know, add up to, you know, we did the</p> <p>3 right thing with him.</p> <p>4 A. My opinion is that we did the right thing and we always</p> <p>5 do the right thing for the inmates that we house. I</p> <p>6 can certainly – I can witness that we have an intake</p> <p>7 system. That we have medical. That we have</p> <p>8 classification. That we have housing officers that do</p> <p>9 rounds. That we protect our inmates. We rehouse them</p> <p>10 when necessary. That we advise them on the zero</p> <p>11 tolerance by signage and education, pamphlets. And</p> <p>12 that we protect them by responding and investigating</p> <p>13 and mitigating and providing services for victims. All</p> <p>14 the things that we've been talking about.</p> <p>15 Q. Anything else?</p> <p>16 A. I think intentional creation of our policies that we've</p> <p>17 already talked about. Using the PREA resource for</p> <p>18 training and all the training that we've done for</p> <p>19 everyone in the facility.</p> <p>20 MS. PRESCOTT: All right. Do you want to</p> <p>21 take that break?</p> <p>22 MR. O'NEILL: Sure. Thanks.</p> <p>23 (Recess taken at 1:33 p.m.)</p> <p>24 (Back on the record at 1:38 p.m.)</p> <p>25 BY MS. PRESCOTT:</p>
<p style="text-align: right;">Page 131</p> <p>1 sexual assault in the jails, and thus, the defendants</p> <p>2 did not act with deliberate indifference as to whether</p> <p>3 plaintiff was subject to an assault in the jail on</p> <p>4 August 24th, 2016. Do you know how B relates to A?</p> <p>5 So, this list of B, does it go with the point in A? Or</p> <p>6 do you know, one way or another?</p> <p>7 A. I guess I don't have an opinion on that.</p> <p>8 Q. Okay. Do you know what – do you have a conception in</p> <p>9 your mind, or a view in your own words, of what it is,</p> <p>10 what amounts to deliberate indifference versus what is</p> <p>11 on the other side of that line?</p> <p>12 A. I don't think I could express an opinion on a legal</p> <p>13 concept like that.</p> <p>14 Q. Okay. Do you have a sense of what steps could be in</p> <p>15 this document, could not be in this document, that</p> <p>16 Wayne County took that show it met its duties or its</p> <p>17 responsibilities to Mr. Burks in the months, years,</p> <p>18 days, leading up to his rape?</p> <p>19 A. I mean, can I think of anything that hasn't been turned</p> <p>20 in prior to 2016, is that what you're asking? I don't</p> <p>21 know what you're asking.</p> <p>22 Q. I guess what I'm asking is there's – you know, we have</p> <p>23 – I'm asking you about any facts that you would bring</p> <p>24 to the table and say okay, this is what, in my view,</p> <p>25 shows that we were doing the right thing by Mr. Burks.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Do you know anything about any medical review of</p> <p>2 anything to do with Solomon or Burks at any time?</p> <p>3 A. I think I gathered from the reports they had medical</p> <p>4 treatment after the attack.</p> <p>5 Q. How about anything from before the attack?</p> <p>6 A. Other than normal screening, I am not aware.</p> <p>7 Q. You're really not aware of the normal screening. You</p> <p>8 just have to know that everybody has to go through the</p> <p>9 quarantine period and go to medical, right?</p> <p>10 A. Yes.</p> <p>11 Q. So, what might have been done with Solomon, or meds, or</p> <p>12 what his conditions were, you don't know?</p> <p>13 A. I do not.</p> <p>14 Q. So, you don't know whether he was a person who was,</p> <p>15 because of medical conditions, a potentially eminent</p> <p>16 danger to Mr. Burks?</p> <p>17 A. I'm not aware of that.</p> <p>18 Q. And have you testified about everything you know about</p> <p>19 the housing of Mr. Solomon and Mr. Burks, the specifics</p> <p>20 of who and what put them together, and what was the</p> <p>21 decision making there? I think you said you really</p> <p>22 don't know about that, right?</p> <p>23 A. That's correct.</p> <p>24 Q. You said that one of the things that's done, in</p> <p>25 general, is to re-house individuals, when necessary,</p>

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<p style="text-align: right;">Page 134</p> <p>1 when there's fear or, you know, known enemies or</p> <p>2 threats or those kind of things, right?</p> <p>3 A. Right.</p> <p>4 Q. But you don't know whether those policies were carried</p> <p>5 out with regard to Burks or Solomon, correct?</p> <p>6 A. I do not.</p> <p>7 Q. Do you know whether Mr. Williams, Keith Williams, or</p> <p>8 Ms. Bell had any training specific to PREA standards</p> <p>9 before August 24th, 2016?</p> <p>10 A. The answer is I know it was directed to happen. I</p> <p>11 don't know when it happened. Unless it's in the</p> <p>12 previous paperwork where we did find some signature</p> <p>13 sheets, I don't recall at this moment.</p> <p>14 Q. You used a word, it was either all or always, in most</p> <p>15 of your recent -- you know, we always protect all of</p> <p>16 the prisoners. And those are -- you know, I'm trying</p> <p>17 to recall exactly the wording and I won't be perfect at</p> <p>18 it. But is it your testimony here today that Wayne</p> <p>19 County jail has always protected all the prisoners that</p> <p>20 have come through its doors?</p> <p>21 A. I was trying to -- it might be hyperbole, but I'm</p> <p>22 suggesting that that's our business, to keep people</p> <p>23 safe. And that's what we do every day.</p> <p>24 Q. Okay. So, I guess what I'm taking, in part, is your</p> <p>25 point -- I guess that -- well, strike that.</p>	<p style="text-align: right;">Page 136</p> <p>1 whether policy was followed in the, you know, months</p> <p>2 leading up to the rape, in terms of operational reviews</p> <p>3 and keeping people trained, keeping people staffed</p> <p>4 appropriately, and whatnot?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is there any factor, any item, assertion, in</p> <p>7 either of the reports that you know of, that wasn't</p> <p>8 accurate? So, the characterization of policy and</p> <p>9 whether it's sufficient or not, it's on the record.</p> <p>10 A. My impression was it was very lengthy, and I would have</p> <p>11 to go over it again.</p> <p>12 Q. Who do you think -- there have been times today where</p> <p>13 you said look, I know what the policy is supposed to</p> <p>14 be. I don't know how it was implemented. Who is</p> <p>15 ultimately responsible for that question whether, on</p> <p>16 610, on August 24, 2016, and the weeks and months</p> <p>17 leading up to it, that would set the conditions that</p> <p>18 would apply that we were following policy? What is</p> <p>19 that person's name?</p> <p>20 A. I guess that would be the commander of the facility who</p> <p>21 would have control over scheduling and duties and</p> <p>22 assignments. And they would have ultimate -- they</p> <p>23 would have the authority that I wouldn't have to look</p> <p>24 at all of those questions.</p> <p>25 Q. Do you know whether the commanders, could they move</p>
<p style="text-align: right;">Page 135</p> <p>1 So, your point is that the goal is to keep</p> <p>2 people safe, the effort is to keep people safe, not</p> <p>3 necessarily that they are always safe?</p> <p>4 A. Our goal is to keep everyone safe to the best of our</p> <p>5 knowledge and experience and do our best to predict</p> <p>6 dangerousness through the classification process.</p> <p>7 Q. Did you read the report -- you said that a couple of</p> <p>8 the things that you looked at ahead of today were some</p> <p>9 reports of some experts that we hired. Did I interpret</p> <p>10 that correctly?</p> <p>11 A. That's correct.</p> <p>12 Q. Was there anything in the reports that you thought was</p> <p>13 incorrect?</p> <p>14 A. I think that the PREA representative was incorrect in</p> <p>15 her general assertion that we don't have any policy and</p> <p>16 we don't do anything, which was my impression of what</p> <p>17 she wrote. And I think the jail expert's opinion</p> <p>18 saying that yes, I do have policy, but I didn't follow</p> <p>19 it is incorrect. From what I know, we followed our</p> <p>20 policy.</p> <p>21 Q. Have we covered everything that you know about the</p> <p>22 following or not following of policy as to Burks,</p> <p>23 Solomon, and the rape?</p> <p>24 A. Yes.</p> <p>25 Q. And have we covered everything that you know about</p>	<p style="text-align: right;">Page 137</p> <p>1 between jails from time to time, or someone could be</p> <p>2 promoted and moved or whatever it may be, whether they</p> <p>3 come in and take a look at the recent history of any</p> <p>4 sexual assault or sexual harassment allegations that</p> <p>5 have been occurring here?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. Do you see how that could be helpful in understanding</p> <p>8 operationally what issues may be ongoing?</p> <p>9 A. In general that practice would be good. Not just for</p> <p>10 this idea, but for operations in general. Maybe they</p> <p>11 do. I don't know.</p> <p>12 Q. When they come in, they review other things, right,</p> <p>13 where are we on staffing, on overtime?</p> <p>14 A. Correct.</p> <p>15 Q. They come in and they look at where are we on</p> <p>16 headcount, correct?</p> <p>17 A. Right.</p> <p>18 Q. So, it's not like the idea of coming in and looking at</p> <p>19 okay, where have we been, where are we heading. That's</p> <p>20 not something out of the ordinary. It's just that they</p> <p>21 haven't done it in these particular ways that you</p> <p>22 described, right?</p> <p>23 A. They could. I tracked results when I was commander.</p> <p>24 But I don't know what their practice is.</p> <p>25 Q. With a PREA lens or the review of what PREA required,</p>

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<p style="text-align: right;">Page 138</p> <p>1 would it be appropriate to house someone who was a risk</p> <p>2 of being a serious harm to a bunkie in a situation</p> <p>3 where they are together mingling all day, like in ward</p> <p>4 610?</p> <p>5 A. I would only say change that to say known risk.</p> <p>6 Q. A known risk?</p> <p>7 A. Yeah.</p> <p>8 Q. Then the answer would be it would not be appropriate,</p> <p>9 correct?</p> <p>10 A. It is. I mean, in general, it's appropriate to not</p> <p>11 house someone who is a known risk with someone that's a</p> <p>12 potential victim. So, sometimes those people would be</p> <p>13 housed alone. But it's hard to speculate.</p> <p>14 Q. Is it an expectation of an officer that if someone is</p> <p>15 waving them over, calling for them like in the night,</p> <p>16 that they should assess what is going on? Is this</p> <p>17 real. Is there something they need. Would that be an</p> <p>18 expectation?</p> <p>19 A. Yes.</p> <p>20 Q. Were you aware that Burks was waving a kite and calling</p> <p>21 for help while he's just been raped overnight and the</p> <p>22 officer ignores him and doesn't help, doesn't render</p> <p>23 assistance?</p> <p>24 A. I was not aware of that. But I became aware, somehow</p> <p>25 in the deposition process, that there was a claim of</p>	<p style="text-align: right;">Page 140</p> <p>1 MR. O'NEILL: I don't need a break.</p> <p>2 MS. PRESCOTT: I can pass the witness.</p> <p>3 MR. O'NEILL: And no questions. Thank you.</p> <p>4 (The expert deposition was concluded at</p> <p>5 1:52 p.m. Signature of the witness was not</p> <p>6 requested by counsel for the respective parties</p> <p>7 hereto.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 139</p> <p>1 that. If it's true or not, I do not know.</p> <p>2 Q. So, that claim has been made by him under oath in a</p> <p>3 court of law and in a federal lawsuit. So, the under</p> <p>4 oath part was, I don't know, 2017. All the way up to</p> <p>5 the lawsuit is filed in 2019. Do you know of anyone</p> <p>6 that ever went back, given those pieces of information,</p> <p>7 and said you're still supervising people, let's ask you</p> <p>8 about this. Let's find out what your take is on that.</p> <p>9 Did anyone do that right up until I called him in and</p> <p>10 subpoenaed him?</p> <p>11 A. I wouldn't have any direct knowledge if that occurred</p> <p>12 or if someone responded. But my experience is that's</p> <p>13 what we do. Of course we would respond because on</p> <p>14 midnights you can hear -- it's quiet and you can hear</p> <p>15 someone asking for assistance. Of course we would</p> <p>16 respond.</p> <p>17 Q. It would not be appropriate to allow a person to go</p> <p>18 overnight before they could get help that they were</p> <p>19 asking for?</p> <p>20 A. We would help them immediately once we were informed.</p> <p>21 Q. So, did you say no, that we would help them</p> <p>22 immediately?</p> <p>23 A. Once we were informed, yes.</p> <p>24 MS. PRESCOTT: I think that I'm done. If you</p> <p>25 want to take a break.</p>	<p style="text-align: right;">Page 141</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF MICHIGAN )</p> <p>3 ) SS</p> <p>4 COUNTY OF MACOMB )</p> <p>5</p> <p>6 I, LAURA AMBRO, certify that this deposition</p> <p>7 was taken before me on the date hereinbefore set forth;</p> <p>8 that the foregoing questions and answers were recorded</p> <p>9 by me stenographically and reduced to computer</p> <p>10 transcription; that this is a true, full and correct</p> <p>11 transcript of my stenographic notes so taken; and that</p> <p>12 I am not related to, nor of counsel to, either party</p> <p>13 nor interested in the event of this cause.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 LAURA AMBRO, CSR-5882</p> <p>23 Notary Public,</p> <p>24 Macomb County, Michigan.</p> <p>25 My Commission expires: July 5, 2026</p>